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TESTIMONY OF MAJOR GENERAL ROBERT B. FLOWERS, U.S. ARMY

HEARING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

SEPTEMBER 14, 2000

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SECOND SESSION

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TESTIMONY OF MAJOR GENERAL ROBERT B. FLOWERS, U.S. ARMY

THURSDAY, SEPTEMBER 14, 2000

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 9:35 a.m. in room 406, Senate Dirksen Building, Hon. Robert C. Smith (chairman of the committee) presiding.

Present: Senators Smith, Crapo, Inhofe, Voinovich, Thomas, Baucus, and Lautenberg.

Senator SMITH. The hearing will come to order.

Good morning, General Flowers. Nice to have you here.

General FLOWERS. Good morning, sir.

Senator SMITH. I am going to deviate just slightly from the norm here for just a moment. Senator Inhofe has another commitment and he had a question that he wanted to ask you, so I am going to yield to Senator Inhofe, and after that I will ask some questions.

Senator INHOFE. I do appreciate that. We had General Flowers before the Senate Armed Services Committee, and I had asked you a couple questions concerning permitting. What I will do, rather than get into that now, is just submit that for the record.

General FLOWERS. Yes, sir.

[The questions and the answers thereto follow:]

ADVANCE QUESTIONS FOR MAJOR GENERAL ROBERT B. FLOWERS

DEFENSE REFORMS

Question 1. More than a decade has passed since the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 and the Special Operations reforms. You have had an opportunity to observe the implementation and impact of those reforms, particularly in your joint assignment.

Do you support full implementation of these defense reforms?

Response. Yes, I support full implementation of these reforms. The objectives of the Goldwater-Nichols legislation are as important today as when the Act passed. They promote the effectiveness of military operations, strengthen civilian control, provide for more efficient and effective use of defense resources, and improve the management and administration of the Department of the Army and Department of Defense.

Question 2. What is your view of the extent to which these defense reforms have been implemented?

Response. I understand that the Goldwater-Nichols reforms have been implemented fully within the Department of the Army. As the Chief of Engineers, I will continue to support these reforms and be guided by the objectives of this important legislation.

Question 3. What do you consider to be the most important aspects of these defense reforms?

Response. The Goldwater-Nichols reforms further a number of important objectives. Four that are particularly important are: (1) enhancing the effectiveness of military operations; (2) strengthening civilian control; (3) improving the management and administration of the Department of Defense; and (4) providing for more efficient use of defense resources.

Question 4. The goals of the Congress in enacting these defense reforms, as reflected in section 3 of the Goldwater-Nichols Department of Defense Reorganization Act, can be summarized as strengthening civilian control; improving military advice; placing clear responsibility on the combatant commanders for the accomplishment of their missions; ensuring the authority of the combatant commanders is commensurate with their responsibility; increasing attention to the formulation of strategy and to contingency planning; providing for more efficient use of defense resources; and enhancing the effectiveness of military operations and improving the management and administration of the Department of Defense.

Do you agree with these goals?

Response. Yes, I fully support the goals of the Goldwaters-Nichols Act. They are as important today as they were when the legislation was enacted in 1986.

RELATIONSHIPS

Question 1. Please describe your understanding of the relationship of the Chief of Engineers, United States Army to the following offices:

Response. (a) *Secretary of Defense.*—As head of the Department of Defense, the Secretary of Defense has full authority, direction and control over all its elements. He exercises this power over the Corps of Engineers through the Secretary of the Army, whose responsibility for, and authority to conduct all affairs of the Army is subject to the authority, direction and control of the Secretary of Defense. If confirmed, I will cooperate fully with the Secretary of Defense in fulfilling the Administration's national defense priorities and efficiently administering the Corps of Engineers in accordance with the policies established by the Office of the Secretary of Defense.

(b) *The Chairman of the Joint Chiefs of Staff.*—The Chairman of the Joint Chiefs of Staffs the principal military adviser to the President, the National Security Council, and the Secretary of Defense. Subject to the authority, direction, and control of the President and the Secretary of Defense, the Chairman plans the strategic direction and contingency operations of the armed forces; advises the Secretary of Defense on requirements, programs and budgets identified by the commanders of the unified and specified combatant commands; develops doctrine for the joint employment of the armed forces; reports on assignment of functions (or roles and missions) to the armed forces; provides for representation of the United States on the Military Staff Committee of the United Nations; and performs such other duties as may be prescribed by law or by the President or Secretary of Defense. If confirmed, I will cooperate fully with the Chairman in his performance of these responsibilities. I will establish a close and professional relationship with him, and will communicate directly and openly with him.

(c) *The Secretary of the Army.*—As head of the Department of the Army, the Secretary of the Army is responsible for, and has the authority necessary to conduct, all affairs of the Department of the Army. He may assign such of his functions, powers and duties as he considers appropriate to the Under Secretary of the Army, as well as the Assistant Secretaries of the Army, and require officers of the Army to report to these officials on any matter. As the Chief of Engineers, I will support the Secretary in the performance of his important duties. I will strive to establish and maintain a close, professional relationship with the Secretary of the Army, based on full and candid communication with him on all matters assigned to me.

(d) *The Under Secretary of the Army.*—It is the prerogative of the Secretary of the Army to specifically define the relationship between the Under Secretary and the Chief of Engineers. The Under Secretary is the Secretary of the Army's principal civilian assistant and senior advisor on key Army issues. If confirmed, I will work closely with the Under Secretary of the Army as I perform my responsibilities as Chief of Engineers.

(e) *The Assistant Secretary of the Army for Civil Works.*—The Assistant Secretary of the Army for Civil Works (ASA(CW)) is principally responsible for the overall supervision of the Army's civil works functions, including programs for conservation and development of the national water resources, flood control, navigation, and shore protection. The complex issues that arise in this area demand a close, professional relationship between the ASA(CW) and the Chief of Engineers, based on mu-

tual respect, trust, cooperation and full communication. I am committed to establishing and maintaining such a relationship with the ASA(CW), in order to respond effectively to the President's priorities and the policy directives of the Congress.

(f) *The Other Assistant Secretaries of the Army.*—The Assistant Secretaries of the Army perform such duties and exercise such powers as the Secretary may prescribe. Each of the Assistant Secretaries of the Army possesses clear duties and responsibilities. The Chief of Engineers cannot properly exercise his authorities without working closely with each Assistant Secretary on Corps of Engineers matters that affect their respective areas of responsibility. I look forward to establishing and maintaining close, professional relationships with these officials.

(g) *The General Counsel of the Army.*—The General Counsel is the chief legal officer of the Army and serves as counsel to the Secretary and other Secretariat officials. If confirmed, I will establish a close and professional relationship with the General Counsel and will actively seek his guidance in order to ensure that Army Corps of Engineers policies and practices are in strict accordance with the law and the highest principles of ethical conduct.

(h) *The Chief of Staff of the Army.*—The Chief of Staff of the Army performs his duties under the authority, direction and control of the Secretary of the Army and is directly responsible to the Secretary. The Chief of Staff also performs the duties prescribed for him by law as a member of the Joint Chiefs of Staff. If confirmed, I will establish and maintain a close, professional relationship with the Chief of Staff. I will communicate with him directly and openly as he performs his prescribed duties.

(i) *The Army Staff.*—The Army Staff assists the Secretary of the Army in carrying out his responsibilities, by furnishing professional advice and operational expertise to the Secretary, the Under Secretary, and the Assistant Secretaries of the Army and to the Chief of Staff of the Army. Under the authority, direction and control of the Secretary of the Army, the Army Staff prepares for and assists in executing any power, duty or function of the Secretary or the Chief of Staff; investigates and reports on the Army's efficiency and preparedness to support military operations; supervises the execution of approved plans; and coordinates the actions of Army organizations, as directed by the Secretary or Chief of Staff. As a member of the Army Staff, the Chief of Engineers must develop close, professional relationships with the Chief of Staff, the Vice Chief of Staff, the Deputy and Assistant Chiefs of Staff, The Surgeon General, The Judge Advocate General, the Chief of Chaplains and the Chief of Army Reserve, in order to ensure that the Army Staff works harmoniously and effectively in assisting the Army Secretariat. I am committed to establishing and maintaining such relationships with the members of the Army Staff.

(j) *The Chief Executive of the States, Territories and the District of Columbia.*—The Corps of Engineers must remain committed to working cooperatively with State and local authorities for the mutual benefit of local citizens and the protection of natural resources. These cooperative efforts must be undertaken in the context of the Corps' authorities and leg;al responsibilities. These responsibilities often require a balancing of diverse interests. The proper reconciliation of these interests demands open communication among all parties. I am committed to establishing and maintaining a full dialog with the Chief Executives of the States, Territories, and District of Columbia on all issues that we must cooperatively address.

Question 2. Describe the chain of command for the Chief of Engineers on:

Response. (a) *Military Matters.*—The Chief of Staff presides over the Army Staff. The Vice Chief of Staff has such authority and duties with respect to the Army Staff as the Chief of Staff, with the approval of the Secretary of the Army, may prescribe for him. As a member of the Army Staff, the Chief of Engineers reports to the Chief of Staff, through the Vice Chief of Staff, with respect to military matters.

(b) *Civil Works Matters.*—The supervisory duties of the ASA(CW) extend to all civil works functions of the Army, including those relating to the conservation and development of water resources and the support for others program. The Chief of Engineers reports to the ASA(CW) on civil works functions.

(c) *Operational Matters.* The Chief of Engineers serves both as a member of the Army Staff and a commander of 11 engineer divisions and one engineer battalion. When employed in support of military contingency operations, these engineer assets fall under the command and control of the Combatant Commander designated for the particular operation.

(d) *Any Other Matters For Which The Chief of Engineers May Be Responsible.*—The functional responsibilities of the ASA(CW) also include most other matters for which the Chief of Engineers may be responsible, and the Chief of Engineers reports to the ASA(CW) with respect to any such matter. In the areas of installation and real estate management, the Chief of Engineers reports to the Assistant Secretary

of the Army (Installations & Environment). Under the direction and control of the Secretary of the Army, the ASA(I&E) has principal responsibility for all DA matters related to installations and the environment.

Question 3. Who is responsible for providing direction and supervision to the Chief of Engineers in each of the four areas listed above?

Response. In each of these areas, the Chief of Engineers acts under the overall authority, direction and control of the Secretary of the Army. With respect to military matters, the Secretary has assigned to the Chief of Staff the authority to preside over and supervise the Army Staff, including the Chief of Engineers. With respect to civil works functions, the Chief of Engineers reports to the ASA(CW). In operational contexts, command and control of engineer assets is exercised by the Combatant Commanders designated for the particular operation.

Question 4a. In your opinion, are there any areas of responsibility where it would be inappropriate for the Chief of Engineers to provide information to the Assistant Secretary of the Civil Works?

Response. No. Unless the information is protected from disclosure for operational/security reasons or prohibited from disclosure by law, as in the case of certain procurement sensitive information, all information relating to the civil works program should be shared with the ASA(CW). I note that even in these instances, the information may be shared if appropriate steps are taken to protect sensitive or proprietary aspects of the information. The relationship between the ASA(CW) and the Chief of Engineers must be founded upon full, open and candid communication about all civil works matters. If confirmed, I will ensure that the ASA(CW)—and, with respect to installation and real estate management matters, the ASA(I&E)—are timely informed about any issue they specify and all significant matters arising within the Corps of Engineers, in order to ensure effective civilian control over the Corps' operations.

Question 4b. If so, what areas and why?

Response. Again, except in those narrow instances where the disclosure of information is inappropriate for operational/security reasons or prohibited by law, as in the case of procurement sensitive matters, I can think of no area in which information relevant to Corps of Engineers activities should not be provided freely, fully and promptly to the ASA(CW).

MAJOR CHALLENGES

Question 1. In your view, what are the major challenges confronting the next Chief of Engineers, United States Army?

Response. Historically, the Nation's rich and abundant water, and related land resources provided the foundation for our successful development and rapid achievement of preeminence within the international community. Since the beginning of our Nation, the U.S. Army Corps of Engineers has been a great asset, providing engineering support to the military, developing our nation's water resources, and restoring and protecting our environment. The Corps has improved the quality of our life by making America more prosperous, safe, and secure. The Corps must be flexible and evolve if it is to continue to make important contributions to the Nation and respond to today's problems.

Communities across the country rely on water resources projects to reduce flood damages, compete more efficiently in world trade, provide needed water and power, and protect and restore our rich environmental resources. Our programs provide a sound investment in our Nation's security, economic future, and environmental stability. Our greatest continuing water resources challenge is to find sustainable ways to strengthen our Nation's economy while protecting and restoring our unique water and related land resources for the benefit of future generations.

There are many pressing needs for water resources development in this country. Perhaps the two greatest challenges the Corps faces are the need to maintain our existing infrastructure, and to repair our damaged environment. We also face the need to have a ports and inland waterway system that will enable us to both efficiently transport goods and to do so in an environmentally acceptable manner. We need an efficient water transportation system if we as a Nation are to remain competitive in international trade. Flooding also continues to threaten our communities. We must not only find ways to use our limited resources to maintain the capability to respond to natural disasters when floods and hurricanes occur, but to also be more creative and work more with nature to prevent or reduce flood damages. Flood damages are a growing drain on our economy, and we must find ways to reduce them. There also is a need to help many communities, particularly poorer communities, find adequate sources of potable water and ways to manage wastewater dis-

posal necessary for economic growth, prosperity, and the quality of life that people deserve.

Question 2. If confirmed, what plans do you have for addressing these challenges?

Response. We must all work together to define an appropriate Federal role in addressing these problems given fiscal capabilities and constraints, and economic and environmental requirements. The challenges the Corps faces are complex, and there are many difficult decisions to make. It is of paramount importance that we bring all interests to the table and that they have a voice in the development of solutions to our Nation's problems. The Corps must strive to be responsive in developing solutions to the Nation's water resources problems and needs, and must engage in an open and cooperative dialog with Congress, other Federal agencies, States, Tribes and local governments.

MOST SERIOUS PROBLEMS

Question 1. What do you consider to be the most serious problems in the performance of the functions of the Chief of Engineers, United States Army?

Response. The Chief of Engineers has wide-ranging responsibilities arising from the varied missions of the Corps. Recognizing the diverse nature of the Corps programs, the Chief of Engineers needs to set clear leadership direction for the Corps as it performs its important Civil Works and military missions. That direction must ensure that it appropriately targets this Nation's critical needs and is supported by the American people.

Question 2. What management actions and time lines would you establish to address these problems?

Response. I have not developed a specific schedule for implementing this vision of clear leadership. One of my first priorities will be to meet with the Assistant Secretary of the Army for Civil Works and others in the Administration and Congress to seek their input and to develop a plan for how this challenge can be met. In addition, I will work to maintain and improve the technical expertise of the Corps workforce by ensuring that employees have opportunities to achieve their career goals and to make contributions that are acknowledged and appreciated.

QUALIFICATIONS

Question 1. Sections 3031, 3032, and 3036 of title 10, United States Code prescribe some of the duties and responsibilities of the Chief of Engineers, United States Army. Other civil works related responsibilities are described in title 33, United States Code.

What background and experience do you have that you believe qualifies you for this position?

Response. I have spent my entire career as an Army officer and professional engineer working with and successfully managing difficult engineering and construction-related issues. During the past 31 years, I have had the privilege to serve in a variety of diverse and challenging positions. My service in these positions has, I believe, given me the experiences, skills, and vision necessary to step in and fulfill the important duties of this position. I have worked with a broad variety of officials within and without government, performed mission requirements under stressful conditions, and found solutions to difficult problems when there was no convenient roadmap to follow.

With respect to my educational background, I received my undergraduate degree in Civil Engineering from Virginia Military Institute. I was awarded a Masters Degree in Civil Engineering from the University of Virginia. My military education includes the National War College and Command General Staff College. I am a registered professional engineer in Virginia.

I have held a number of military assignments that qualify me for this position. I served as Theater Engineer in Desert Storm, Somalia, and during the initial operations in the Balkans. My other critical assignments include serving as the Commanding General, United States Army Engineer Division, Lower Mississippi Valley; serving as Assistant Division Commander, 2d Infantry Division, Eighth United States Army, Korea; and serving as the President of the Mississippi River Commission from 1995–1997.

Question 2. Do you believe these multiple statutory references provide clear guidance or are they in conflict?

Response. In my judgment, these statutes clearly describe the duties and responsibilities of the Chief of Engineers. I am, however, committed to working closely with Congress should a question arise concerning my duties and responsibilities as

the Chief of Engineers in order to ensure that my actions are consistent with the authorities that Congress has enacted into law.

POLITICAL PRESSURES

Question 1. Perhaps the most difficult part of the job of Chief of Engineers is the tactful handling of the inevitable political pressures that comes with overseeing major civil works projects.

If confirmed, how will you deal with these pressures and ensure the integrity of the Corps of Engineers?

Response. I am committed to maintaining the integrity of the Corps of Engineers. In this regard, if I am confirmed as the Chief of Engineers, I will work cooperatively with all interests and thoroughly consider all points of view. My discussions will be open and forthright and intended to ensure that Corps decisions are broadly understood and supported.

Question 2. A February 24, 2000 article in the Washington Post reports that military officials in the Army Corps of Engineers developed a "Program Growth Initiative" providing financial targets for each of the agency's activities and divisions, without consulting the Office of the Chief of Engineers.

Do you have any independent knowledge of these events?

Response. I have no first hand knowledge of the specific facts related to the allegations made in that article.

Question 3. In your opinion, would it be appropriate for military officials in the Corps of Engineers to develop plans for program growth including the establishment of financial targets without consulting the civilian leadership of the Army?

Response. Typically, the Chief of Engineers makes Civil Works program recommendations to the Assistant Secretary of the Army (Civil Works), who in turn works with the Secretary of the Army and the Office of Management and Budget in developing the Administration's final position on program direction, consulting with Congress as appropriate.

Question 4. What is your view of the initiative described in the article?

Response. I have not developed a position on the initiative at this time. I am prepared to engage in discussions with the Assistant Secretary of the Army (Civil Works), the Office of Management and Budget, and the Congress to determine whether there is consensus support for broadening the Corps responsibilities to address certain national needs.

Question 5. A second article in the same edition of the Washington Post cites a memorandum in which Major General Hans Van Winkle is reported to have told his top staff "[W]e have to have support from Users Board, MARK 2000, and DYNAMO." Do you have any independent knowledge of the memorandum?

Response. I have no first hand knowledge of the statement by Major General Hans Van Winkle or the facts behind that statement.

Question 6. What role should the approval or disapproval of navigation industry groups play in decisions made by the Corps of Engineers about specific projects?

Response. Decisions about Corps of Engineers projects are the responsibility of officials in the Executive and legislative branches. However, the Corps often is required by law, and invariably finds it beneficial, to seek input from affected interests and the public during the development of proposed Civil Works decisions. The Corps welcomes input from as broad a constituency as possible. Concerns of the affected stakeholders, and the public at large, are crucial in validating needs and priorities and identifying impacts.

Question 7a. Does the Army Corps of Engineers currently have a system in place to ensure the independent peer review of studies supporting major projects by experts from outside the agency before such projects are approved?

Response. No. Although the Corps does conduct both technical and policy reviews of projects, they are not the type of formal peer review practiced by the scientists and engineers in the research community. The existing review process for major studies does, however, include opportunities for comment by, and consultation with, stakeholders, elected officials at all levels, other Federal agencies, technical experts, and the general public before recommendations are submitted to the Administration and to Congress.

Question 7b. If not, do you believe that it would be appropriate to institute such an independent peer review program? Why or why not?

Response. I would be willing to consider looking at such a proposal, however, there are a number of factors to be considered. An independent peer review program

would be overlaid upon the existing system checks and balances to ensure the accuracy and objectivity of study results. I would want to confirm that the benefits of such a program justify the cost and time associated with it.

PROPOSED MANAGEMENT REFORMS OF THE CORPS OF ENGINEERS

Question 1. On March 30, 2000, the Secretary of the Army issued a memorandum entitled, "Civil Works Management Reforms".

What is your personal assessment of the proposal?

Response. I understand the need to ensure that the relationship between the Chief of Engineers and the ASA(CW) is clear and that the OASA (CW) and Corps of Engineers communicate fully on all issues. I also understand the need to preserve the independent, professional engineering judgment of the Chief of Engineers and to ensure that the essential flow of information to Congress on civil works matters is not interrupted. The Secretary has assured me that he expects me to communicate fully with Congress on matters of concern to the Congress and to continue to submit my personal recommendations to Congress regarding the authorization of projects in Chief of Engineers reports.

Question 2. Do you believe that the management reforms should be put on hold until you and/or the next Administration have a chance to review them?

Response. The issue of whether the reforms should be put on hold for the next Administration is essentially a political judgment that others within the executive and legislative branches are better qualified to make. I do understand, however, that the Secretary has agreed to delay further implementation of the reforms pending additional consultation with Congress.

DISTRICT OF COLUMBIA SCHOOL CONSTRUCTION

Question 1. There have been recent press reports about the performance of the Corps of Engineers in dealing with the construction project in the District of Columbia school system.

Please provide your view of the reports with regard to this project and your assessment of the status of this program.

Response. I have not been personally involved with any matter relating to the assistance that the Corps of Engineers is providing to the District of Columbia school system. I am, however, generally familiar with the important services the Corps of Engineers provides to other Federal agencies, states, and political subdivisions of states in connection with its "Support for Others" program. I plan to work closely with the executive and legislative branches to ensure that the services requested match up with the Corps capabilities, are not reasonably and expeditiously available elsewhere in the private sector, and ultimately can be provided by the Corps in an effective manner consistent with its mission requirements.

USE OF EMERGENCY AUTHORITY

Question 1. In the past, there may have been attempts to require the Corps to accelerate construction projects by having the Corps of Engineers declare the projects to be an emergency under the authority of Public Law 8499.

What criteria would you use to determine which projects truly constitute an emergency and require special funding?

Response. I am not personally familiar with the specific facts of the situations to which you refer. I am however cognizant of the need to carefully exercise this authority to ensure that the actions taken are consistent with the various actions contemplated in the statute. Those actions include flood emergency preparation; flood fighting and rescue operations; repairing and restoring flood control works or hurricane and shore protective structures when warranted by emergency circumstances; and providing emergency supplies of clean drinking water. Engineer Regulation 500–1–1 (1991), *Natural Disaster Procedures*, provides guidance on decisionmaking under this authority.

ENVIRONMENTAL CONCERNS

Question 1. If confirmed, you will take command of the largest construction element in this country. In dealing with virtually every civil and public works project of the Corps, there is the very real concern for our environment.

What is your philosophy in balancing the missions and projects of the Corps of Engineers with the provisions of the National Environmental Protection Act (NEPA)?

Response. I am committed to the precept that the Corps can and must carry out its missions in an environmentally responsible manner. The Corps has a long record

of coordinating its missions and planning its projects in compliance with the provisions of NEPA, which has led to better and more environmentally sensitive projects. While Corps missions and projects have potential to be environmentally damaging, I am committed to ensuring that they are planned and constructed in such a manner as to avoid or minimize environmental impacts. In those instances where impacts to significant resources cannot be avoided, a mitigation plan for the impacts will be developed.

UPPER MISSISSIPPI RIVER/ILLINOIS WATERWAY PROJECT

Question 1. Recently there has been some controversy surrounding the Upper Mississippi River/Illinois Waterway project. There has been an allegation by a Corps of Engineers civilian employee that the Corps of Engineers, "intentionally and deliberately altered a portion" of the $50 million study of this navigation system, thus rendering this entire study worthless.

What is your comment about the integrity of the study?

Response. The Army takes very seriously any allegation of misconduct by senior Corps officials, and is thoroughly and impartially investigating the allegations that have been made in this matter. The Army also appreciates the importance of this navigation study and is committed to an open and objective process in which the American people can have full confidence. Accordingly, the Army has engaged the highly respected National Academy of Sciences to undertake an independent review of the economic aspects of this study.

Question 2. Do you believe anyone in the Corps direct that this study be altered to assure a specific outcome?

Response. I have no first hand knowledge of the matters under investigation. The Army is thoroughly investigating this matter under the direction of the Special Counsel and the Secretary of Defense. I am confident that this investigation will reveal all of the relevant facts.

Question 3. If so, what is being done to ensure the quality and integrity of this very expensive and important study?

Response. The National Academy of Sciences is conducting an independent, objective review of the Corps' navigation study, to ensure that it correctly incorporates scientifically sound, valid analyses. The Academy's review is intended to ensure that valid data and study methodologies have been employed and that the American public can have full confidence in the objectivity of the ultimate study conclusions.

Question 4. Despite the outcome of the investigations in this matter, how will you ensure the employee who made these allegations is not subject to retaliation for making such allegations?

Response. Irrespective of whether the allegations are confirmed or refuted, the Chief of Engineers will be responsible for ensuring that the Corps of Engineers maintains a workplace free of reprisals, or the threat of reprisals, against any employee. If confirmed, I will ensure that all supervisors throughout the Corps understand, appreciate, and fulfill their responsibility to safeguard subordinates from any improper retaliatory measures.

Question 5. The Lead Economist for the project has stated in a sworn affidavit that he was directed by his superiors to change the "N" value for grain in his economic analysis.

Do you have any independent knowledge of whether such direction was given?

Response. I have no independent knowledge of whether such direction was given.

Question 6. Do you believe that it would be appropriate for Army Corps of Engineers officials to direct specific values to be included in an economic analysis?

Response. The integrity of economic analyses performed by the Army Corps of Engineers rests on the openness, objectivity and scientific validity of the analytical processes employed in performing such analyses. Any direction by Corps officials that undermines, or appears to undermine such openness, objectivity or scientific validity would be inappropriate. If confirmed, I will ensure that economic analyses performed by the Corps of Engineers are worthy of the public's complete confidence.

Question 7. Do you have any independent expertise in the area of economic analysis?

Response. No.

MOST SIGNIFICANT PROJECTS

Question 1. What do you see as the most significant projects planned for the next 10 years by the Corps of Engineers?

Response. The Corps civil works and military construction missions include many significant projects.

The work that is being done to support the Florida Everglades Restoration is a major inter-governmental effort with national implications. Similarly, the actions that are being taken to preserve and restore endangered fish species in the Lower Snake and Columbia Rivers involve another nationally prominent environmental restoration effort.

The Corps navigation projects are designed to assure that the nation's navigation system continues to be efficient and to support the balance of trade. Particularly prominent navigation projects include the Oakland Harbor, New York & New Jersey Harbor, and Olmstead Locks and Dams.

Continued support to quality of life initiatives, such as the Army's Barracks Upgrade/Renewal Programs and privatization of family housing are some of the Corps of Engineers most prominent military construction missions.

The construction in Israel associated with the Wye River Accord and the support to contingency operations are two examples of prominent missions involving other DOD elements.

Question 2. In your opinion, is the Corps of Engineers properly resourced and staffed to complete these projects?

Response. While I have a general familiarity with the issues that the organization faces, I cannot State at this time whether the Corps is properly resourced and staffed to effectively execute all of its mission requirements. If I am confirmed as the Chief of Engineers, I am committed to examining this issue, and to working with the Administration and Congress to ensure that the Corps of Engineers is properly staffed and resourced to meet the Nation's critical and important needs.

DREDGING PROJECTS

Question 1. The Corps of Engineers has many dredging projects with an increasing need for suitable disposal sites. Not only does the need for disposal sites increase the cost of the dredging, but the potential contamination of the dredge spoils raises concern about adverse impact on the environment near the disposal site.

How will the Corps deal with this issue?

Response. The Corps of Engineers has expended considerable effort in attempting to address the challenge of proper disposal of dredge material. I understand that substantial research is underway to identify decontamination processes and consolidation procedures in order to clean the material and prolong the capacity of disposal sites. Extensive efforts also are underway to identify beneficial uses of dredged material with very promising results. The Corps must continue to focus on finding ways to apply dredged material to beneficial uses and to identify ways to reduce the costs of channel deepening and maintenance.

Question 2. What is the status of available disposal sites?

Response. I am not familiar with the status of available disposal sites but if confirmed, I would be active in examining their status in an effort to ensure that they were sufficient to meet national needs.

BEACH RENOURISHMENT

Question 1. Beach renourishment projects have had mixed results.

What are your views on the effectiveness of these projects when balanced against their tremendous cost?

Response. Like most water resources problems, there is no one solution to the many challenges that coastal flooding presents. Beach renourishment projects generally have less severe adverse impacts—particularly to adjacent areas—and can accommodate recreational usage. Yet, they are often expensive and should only be recommended where they are economically justified. In general, however, beach renourishment projects can be an effective solution to certain types of problems and should continue to be considered by both Federal and non-Federal interests when evaluating damages to coastal areas.

HYDRO-POWER PROJECTS

Question 1. The Corps of Engineers operates a number of hydro-power projects, several of which have caused environmental concerns.

Do you plan to review these projects?

Response. I recognize there are environmental concerns associated with these projects. These concerns need to be addressed along with all the other authorized purposes of the project in order to optimize the benefits consistent with our environmental stewardship responsibilities. If confirmed, I will work closely with affected

local, state, regional, and Federal agencies to achieve a mutual understanding and resolution of these complex issues.

Question 2. Do you support mitigation payments to states that are adversely affected by such projects?

Response. Again, all the benefits and impacts of a project need to be evaluated. If confirmed, I will work closely with those states in question to determine if any type of mitigation is necessary and the best way to provide it.

LAND MANAGEMENT

Question 1. The Corps of Engineers' management of various lake properties throughout the Nation has a direct economic impact on the local communities. Many of these communities believe the Corps should be more flexible with property owners and should allow more development on the large tracts of land surrounding the Corps lakes to enhance the tax base of the communities.

What are your views on this issue?

Response. In general, I believe that land use and development decisions on private land should be left to appropriate local governmental entities such as zoning boards. With respect to Federal land, the Corps has a responsibility to protect the public investment in the property and to ensure that the land is used for the Congressionally authorized purposes for which it was acquired. In these instances, it would not be appropriate to allow development on Federal land unless Congress authorizes such development.

ALLEGATIONS OF WASTE AND ABUSE

Question 1. The Corps of Engineers has been the subject of significant public attention in the past year, including allegations of waste and abuse and a highly publicized clash with the Army Secretariat. You are a career Corps officer who has been involved in the sort of major civil works projects, which are the subject of these disputes.

If confirmed, would you be able to deal with these problems?

Response. The fact that I have been a Corps of Engineers Division Commander will serve me well, if I become the new Chief, in dealing with disputes relating to the Corps of Engineers civil works activities. I understand the need to cooperate and communicate openly with all interested parties, in order to make sound decisions and to avoid perceptions of bias. I also understand the complexity of the issues involved in formulating recommendations for water resources development and for environmental restoration.

Question 2. What would your plans be for dealing with them?

Response. I would emphasize the high professional standards to which the officers and civilians of the Army Corps of Engineers strive. I would expect all employees to perform their jobs consistently in accordance with those standards. If, after a full and fair investigation, I found that those standards were not being adhered to, I would take steps to hold the parties accountable.

ANTHRAX VACCINATION

Question 1. Have you received any of the series of anthrax vaccinations?

Response. Yes.

Question 1. If not, why not? And would you be willing to begin the vaccination protocol before you are confirmed?

Response. N/A

Question 1. If confirmed, what will you do to ensure the confidence of the force in the safety and necessity of the anthrax vaccine?

Response. The anthrax vaccination program is a highly effective method of countering the threat of biological weapons. I fully support the Anthrax Immunization Vaccination Program and the Department of Defense view that it is one of the cornerstones of Force Health Protection. I recognize that anthrax protection is particularly challenging because the vaccination protocol requires multiple doses to achieve immunity, and thus involves significant administrative and logistical issues. I will support the Army's efforts to provide up-to-date information about the anthrax vaccine and the threat to our personnel.

MICRO-MANAGEMENT

Question 1. A survey of almost 2,500 young officers last fall found that only about one-third intend to make a career of the military and that those planning to leave

are disgruntled about "micro-management", heavy workloads while in port, and a "zero defects mentality" among their superiors.

What is your assessment of these findings?

Response. In general, I have found our young officers to be highly motivated, and enthusiastic about serving their country. I am aware, however, that our high personnel tempo has resulted in lower morale among some junior officers. I am concerned about this and other survey findings. It is absolutely critical to our Army that we produce leaders who are highly motivated, properly treated, and appropriately utilized. I and other senior leaders of the Army must strive to avoid the creation of a zero defect environment so that all of our subordinates will exercise initiative and use their best judgment free from the fear of making career-ending decisions. I will also continue to endeavor to be fair in all of my dealings with my subordinates, in what I expect from them, in providing them with opportunity for development, and when needed, in imposing discipline.

We must learn as much as we can about the problems that our junior officers have raised. In this regard, I support the initiatives of the Secretary of the Army, and the Army Chief of Staff of the Army, in forming two Blue Ribbon Panels to examine training and leader development methods, as well as to assess how to better meet the personal and professional expectations of leaders, soldiers, and families.

Question 2. If you agree with the findings, what actions do you plan to correct these concerns?

Response. I will closely study the results and recommendations of the Blue Ribbon Panels to improve the Army's training and leader development processes. I will take steps to maintain and improve the quality of life for all of the Corp's soldiers and civilian employees and their family members. I will frequently consult with my junior officers and enlisted personnel to ensure that we are providing an excellent work environment and affording them every opportunity to develop and learn so they are ready to assume the leadership roles we leave behind.

CONGRESSIONAL OVERSIGHT

Question 1. In order to exercise its legislative and oversight responsibilities, it is important that this committee and other appropriate committees of the Congress are able to receive testimony, briefings, and other communications of information.

Do you agree, if confirmed for this high position, to appear before this committee and other appropriate committees of the Congress?

Response. Yes.

Question 2. Do you agree, when asked, to give your personal views, even if those views differ from the Administration in power?

Response. Yes.

Question 3. Do you agree, if confirmed, to appear before this committee, or designated members of this committee, and provide information, subject to appropriate and necessary security protection, with respect to your responsibilities as the Chief of Engineers, United States Army?

Response. Yes.

Question 4. Do you agree to ensure that testimony, briefings and other communications of information are provided to this committee and its staff and other appropriate committees?

Response. Yes.

OPENING STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator INHOFE. You already responded very satisfactorily, but not quite as thoroughly as we need to have on that.

General FLOWERS. OK, sir.

Senator INHOFE. This is another, totally unrelated issue. It is one that is creating a real serious problem for me, so this is parochial, but it's one that you will be dealing with.

In northeastern Oklahoma we have—a lot of people aren't aware, Senator Lautenberg, that Oklahoma has more miles of fresh water shoreline than any of the 50 States. Did you know that?

Senator LAUTENBERG. No.

Senator Inhofe, Well, we do, and most of them are Corps lakes. The reason it is shoreline is that they are all dammed up from the rivers, lots of shoreline.

Anyway, the largest one is called Grand Lake, and it was established by the Corps in 1941, and a couple years before that they established the Grand River Dam Authority to take care of the generation of electricity.

Now, the problem that exists is that upstream from that, in a place called Ottawa County, they have had serious flooding problems. The GRDA, Grand River Dam Authority, has no control because under the regulations it is still the Corps that dictates the flow of the water. So they can't control this.

There are some lawsuits that are pending, that have been filed, so we are in this dilemma where the GRDA is being sued, and yet we don't have any control over what we do. So we have asked for a study—I think it's in the WRDA bill—we have asked for a study by the Secretary, and I have talked to the Secretary about this; this is not a contentious thing, other than that we just have to get it resolved at some point, to see if in fact it is the Corps that is responsible for the damage, in which case they should be involved in the lawsuit also.

One of the problems is venue. They talked about "if the Corps is involved in this thing," that it's going to have to be in the Washington District, and for obvious reasons they'd rather not have it there.

But I would only ask that if the study comes out and it clearly says—or there is persuasive evidence—that it is not the GRDA but it is the Corps that is responsible for these problems up there, that you would help us in addressing these things.

Now, I know I'm not asking the right person because you're not going to be able to set the policy decisions. However, you will be involved in this thing, and I just wanted to get this out in the open right now and at least ask you if you would do all you could to cooperate with us, and then after the study comes out, if we determine that it is the Corps, to help us to resolve the problem.

General FLOWERS. Yes, sir. If confirmed, I will do everything I can to cooperate with you on that one.

Senator INHOFE. Well, I knew you would.

That's really the extent of what I wanted to bring out, Mr. Chairman, and I appreciate Senator Baucus and Senator Lautenberg and you for allowing me to do that.

Thank you, General Flowers. I look forward to enjoying my service with you.

General FLOWERS. Thank you, sir.

OPENING STATEMENT OF HON. BOB SMITH, U.S. SENATOR FROM THE STATE OF NEW HAMPSHIRE

Senator SMITH. Thank you, Senator Inhofe.

Now we will proceed to some opening comments, and then we'll hear from you, General Flowers.

As you know, the hearing is on the nomination of Major General Robert B. Flowers to be the Chief of the Army Corps of Engineers. The nomination, of course, is referred to the Armed Services Committee, not to this one, so we will not be having a vote on your

nomination, of course, but we do have jurisdiction over the Army Corps' Civil Works Program, which is why we've invited you to be here this morning.

The Chief of Engineers has a lot of important responsibilities. He is a member of the Army General Staff. He reports to the Vice Chief of Staff on military matters for engineers assigned to line combat units.

But the Chief also has important civil engineering responsibilities. He reports to two different Assistant Secretaries of the Army. He reports to the Assistant Secretary for Installations and Environment for his installation and real estate management responsibilities, and he reports to the Assistant Secretary for Civil Works for the management of the Corps' large Civil Works Programs. That's a lot of people to report to.

Major General Flowers is currently dual-hatted, serving as Commanding General, U.S. Army Maneuver Support Center, and Commandant, U.S. Army Engineer School, both located at Fort Leonard Wood, MO.

Before that, he previously served as the Commanding General of the U.S. Army Engineer Division, Lower Mississippi Valley, and the Assistant Division Commander of the 2nd Infantry Division, Eighth U.S. Army, Korea, and president of the Mississippi River Commission from 1995 to 1997. He also served as Theater Engineer in Desert Storm, in Somalia, and during the initial operations in the Balkans. He has had a very distinguished military career.

He received his B.S. from Virginia Military Institute and M.S. from the University of Virginia. Both degrees are in civil engineering.

I am pleased to report that General Flowers is very well qualified for his position, and we certainly look forward to your speedy confirmation, which I think will happen as soon as we finish this hearing.

General you are going to assume your new duties in interesting times. There are a few very prominent articles that have been appearing in the local papers, and the challenges you face are great. Some believe that the Corps is a rogue agency, out of control; even the integrity of the Corps has been disputed. Others have alleged that the Corps is a victim of inappropriate political pressures, with various Federal agencies meddling in the Corps' professional judgments. There have also been well-documented and heavily reported communications failures between the Chief's office and that of the Assistant Secretary for Civil Works.

But whether you believe the Corps is a rogue or a victim, or whether the charges are fair or unfair, I think it is largely going to fall on you to restore the reputation, if you can assume that the reputation needs to be restored. That doesn't necessarily mean that every article we read is accurate, obviously.

This committee is concerned, though, about the operation of the Corps. A few months ago, along with Senator Warner, the chairman of the Armed Services Committee and Senator Stevens and myself, we initiated an investigation into some of the allegations regarding the Corps' operations. As of this time we have not announced anything publicly on that. I want to do that right now, this morning.

There were two prongs to the inquiry. First, we examined all the allegations that the executive branch officials brought inappropriate political pressure that affected the Corps' professional judgment. We looked into that.

Second, we examined the basis and need for the so-called "Civil Works Program Management Reforms," announced by Army Secretary Caldera last spring.

The Corps and the Army provided us with volumes of documents in response to our questions. They were very accommodating in that. After a careful evaluation of all the material—I want to make it very clear—we did not find evidence of illegality, nor did we find evidence of inappropriate political influence on the Corps' professional judgment. The material does raise some questions that may be areas of future committee oversight in terms of, perhaps, some e-mails and correspondence and things that perhaps might be a bit embarrassing, but there's a big difference between embarrassing memos and inappropriate or illegal activity. We found none.

Similarly, the material provided to the committee does not establish the need for any significant Civil Works management reforms. The material did reveal that there was a systematic communications and management breakdown between the Chief and the Office of Assistant Secretary; many of these internal communications, as I said, are embarrassing, and they do demonstrate, perhaps, a lack of judgment, and probably never anticipated that congressional investigators would be reading through their e-mails.

General Flowers has provided written response to questions, which will be made part of the record, that indicate that he clearly understands the chain of command for his Civil Works responsibility.

[The referenced response follows:]

Senator SMITH. I don't want to get ahead of your testimony, General, but I want to say that you state very clearly,

> The supervisory duties of the Assistant Secretary of the Army for Civil Works extend to all Civil Works functions of the Army, including those relating to conservation and development of water resources and support for other programs. The Chief of Engineers reports to the Assistant Secretary on Civil Works functions.

That's a very definitive statement. I think it should put to rest any rush to judgment that anyone might make regarding the chain of command. It is my view that we should let General Flowers assume his duties for a time before beginning to consider whether or not sweeping management reforms are necessary. I made that very clear, directly to Secretary Caldera. We should also wait to see if the new political leadership that will come after the elections—whomever it is—finds that the reforms are necessary.

I can already read the headlines: "Kill Corps Cronies, Stop the Reforms." The press can write that if they want to. I have been the victim of adverse headlines before, but that's not the message that I want the nominee to take away from this hearing, which is why I am bringing it up right now.

You have the respect and support of this committee and the Senate.

General there have been legitimate policy issues raised on these topics, like the integrity of the Corps' economic analyses and the future role of the Corps. The issues should be examined and, if nec-

essary, fixed, and the committee will be working with you and watching closely to do that.

The committee also will not tolerate the gridlock that has characterized the relationship between the Chief's office and the Assistant Secretary's office. On the Civil Works Program it is crystal clear, as you indicated, that you work for the Assistant Secretary. It is also crystal clear that you understand that. My charge to you is to make that relationship work, which I know that you have the capability to do.

Later today Senators Warner, Stevens, and myself will send a letter to Secretary Caldera. The letter is drafted and signed by two of us; on the other, the content of the letter has been approved and the signature will be received before the end of the day. We will make that available once it is delivered. The letter states four major principles:

First, based on our review of the documents provided and additional discussions between committee staff and Corps of Engineers personnel with respect to the allegations, we have concluded that while some of the events described in the documents reflect poor judgment on the part of a number of officials at the Corps, in the Assistant Secretary's office, and elsewhere in the executive branch, there is not sufficient evidence of inappropriate or illegal conduct to warrant further investigation by the committee.

Second, however, based on our evaluation of the documents, we also believe that any significant management reforms are unnecessary at this time.

Third, it is evident from the documents that individual personalities significantly contributed to the tension and lack of trust between the leadership of the Corps and the civilian leadership of the Office of the Assistant Secretary. It is the committee's hope that better communication and new leadership will help address this tension and lack of trust.

And finally, we believe that further consideration of any management reforms should be deferred, if any reforms take place, until the new Chief is confirmed and other new key personnel are in place.

I intend to include a copy of that letter in the record of the hearing.

[A copy of the referenced letter follows:]

U.S. SENATE,
Washington, DC., September 13, 2000.

Hon. WILLIAM S. COHEN, *Secretary,*
Department of Defense,
Washington, DC.

DEAR SECRETARY COHEN: On April 5, 2000, we wrote to you expressing our concerns regarding the management reforms for the civil works function of the Army Corps of Engineers that were announced by Secretary Caldera. At that time, we requested that you suspend any implementation of the proposed reforms pending our investigation of the reforms and the circumstances that led up to their issuance. We are writing to inform you that we have completed our investigation and have determined that no further Congressional action is warranted at this time. However, we do not find that justification exists to warrant implementation of these proposed reforms at this time.

As you know, our investigation was prompted by the announcement of Secretary Caldera's proposed management reforms for the Corps of Engineers. Our concerns stemmed, in part, from the fact that no justification for the reforms was provided to the Congress before their announcement on March 30. In addition to the substance of the proposed reforms, we were concerned also about the timing of the announcement. The proposed reforms were released on the heels of a series of articles in the Washington Post raising serious concerns about the objectivity of the U.S. Army Corps of Engineers in recommending for authorization water resources projects to the Congress. Allegations were also made that executive branch officials had improperly interfered with Corps activities on several significant projects. The most serious allegations charged the Corps of Engineers with improperly calculating the economic benefits of a proposal to justify the expansion of locks on the Mis-

sissippi River to facilitate grain transportation. We understand that this matter has been referred to the Inspector General of the Department of Defense. The Inspector General's final report is not yet available nor has the Inspector General made any recommendations to date.

In order to evaluate the basis for Secretary Caldera's proposed management reforms and other allegations of inappropriate political interference with Corps activities, the three Senate committees of jurisdiction—the Committee on Armed Services, the Committee on Environment and Public Works, and the Committee on Appropriations—requested that Lieutenant General Ballard, the former Chief of the Corps of Engineers, provide a number of relevant documents and respond to a series of written questions. In particular, the committees requested information that would support, or refute, the assertion that there was a breakdown in the execution of the Civil Works Program. The committees also requested specific examples of circumstances where there was allegedly inappropriate political interference by executive branch officials in the professional judgments of the Corps of Engineers. General Ballard provided a number of documents and responses to the committees' questions in a timely manner, and we have now had an opportunity to review those documents in detail. In addition, on August 31, Secretary Caldera provided the committees with a set of documents setting forth the legal basis for his proposed management reforms and explaining the rationale behind them.

Based on our review of the documents provided, and additional discussions between committee staff and Corps of Engineers personnel with respect to the allegations, we have concluded that while some of the events described in the documents reflect poor judgment by a number of officials at the Corps, in the Assistant Secretary's office, and elsewhere in the Executive branch, there is not sufficient evidence of inappropriate or illegal conduct to warrant further investigation by the committees at this time. However, based on our evaluation of the documents, we also believe that it is unnecessary to implement any significant management reforms at this time. It is evident from the documents that individual personalities significantly contributed to the tension and lack of trust between the military leadership of the Army Corps of Engineers and the civilian leadership of the office of the Assistant Secretary (Civil Works). It is the committees' hope that better communication and new leadership will help address this tension and lack of trust. At a minimum, we strongly believe that further consideration of any management reforms should be deferred until the new Chief of Engineers is confirmed and has an opportunity to fully assess the situation.

In conclusion, this letter confirms that the committees' inquiry into the basis and need for Secretary Caldera's proposed management reforms is closed. The committees will not need any further information from the Secretary of the Army. However, based on our review of the materials provided, we also believe that there is no justification for the proposed reforms at this time. It is our strongly held view, as Chairmen of the committees of Jurisdiction, that the implementation of any management reforms relating to the Army Corps of Engineers and the Assistant Secretary (Civil Works) must be deferred until Congress can receive the assessment of the new Chief of Engineers and can review the findings and recommendations of the Department of Defense Inspector General. We strongly urge you to consider these views seriously.

Thank you and your staff for your cooperation in this matter.

Sincerely,

TED STEVENS, *Chairman,*
Committee on Appropriations.
JOHN W. WARNER, *Chairman,*
Committee on Armed Services.
BOB SMITH, *Chairman,*
Committee on Environment and Public Works.

Senator SMITH. I am proud of the Army Corps and a supporter of the Army Corps. I respect what the Army Corps has done for America over the years. Where mistakes have been made, they were made because we directed you, for the most part, to do something—such as the Everglades, which turned out to be wrong.

I think you have a challenge ahead of you, but I think you are ready, and I look forward to hearing your testimony.

[The prepared statement of Senator Smith follows:]

STATEMENT OF SENATOR ROBERT SMITH, U.S. SENATOR FROM THE STATE OF NEW HAMPSHIRE

Good morning. Today's hearing is on the nomination of Major General Robert B. Flowers to be the Chief of Engineers, the Department of the Army. This nomination was referred to the Armed Services Committee. There will be no vote here in the Environment and Public Works Committee to report Major General Flowers' nomination. This committee does have jurisdiction over the Army Corp's Civil Works Program, that is why we invited the General here today.

The Chief of Engineers has several important responsibilities. He is a member of the Army General Staff, reporting to the Vice Chief of Staff on military matters for engineers assigned to line combat units. The Chief also has important civil engineering responsibilities. He reports to two different Assistant Secretaries of the Army. He reports to the Assistant Secretary (Installations and Environment) for his installation and real estate management responsibilities. He reports to the Assistant Secretary (Civil Works) for the management of the Corp's large civil works program. Major General Flowers is currently "dual hatted," serving as Commanding General, United States Army Maneuver Support Center and Commandant, United States Army Engineer School, both located at Fort Leonard Wood. He previously served as the Commanding General, United States Army Engineer Division, Lower Mississippi Valley; Assistant Division Commander, 2d Infantry Division, Eighth United States Army, Korea; and President of the Mississippi River Commission from 1995–1997. He also served as Theater Engineer in Desert Storm, in Somalia, and during the initial operations in the Balkans. He received a received his B.S. from Virginia Military Institute and M.S. from the University of Virginia. Both degrees are in Civil Engineering. I am pleased to report that Major General Flowers is well qualified for his position.

General Flowers, you will assume your new duties in interesting times, and the challenges you face are great. Some believe that the Corps is a rogue agency, out of control. The integrity of the Corps' analyses has been disputed. Others have alleged that the Corps is a victim of inappropriate political pressures, with various Federal agencies meddling in the Corps' professional judgments. There also have been well-documented, and heavily reported, communication failures between the Chief's office and that of the Assistant Secretary for Civil Works. Whether you believe the Corps is a rogue or a victim, and whether the charges are fair or not, it will largely fall to you to restore the reputation of the Army Corps of Engineers. This committee is concerned about the operation of the Corps of Engineers. A few months ago, along with Senator Warner, the Chairmen of the Armed Services Committee, and Senator Stevens, the chairman of the Appropriations Committee, I initiated an investigation into some of the allegations regarding Corps operations.

There were two prongs to the inquiry. First, we examined allegations that executive branch officials brought inappropriate political pressure that affected the Corps' professional judgments. Second, we examined the basis and need for the so-called Civil Works Program Management Reforms announced by Army Secretary Caldera last Spring. The Corps and Army provided us with volumes of documents in response to our questions. After a careful evaluation of the material, we did not find evidence of illegality, or of inappropriate political influence on the Corps' professional judgments. The material does raise some questions that may be areas of future committee oversight activity. Similarly, the material provided to the committee does not establish the need for any significant Civil Works Management reforms. The material did reveal that there was a systemic communications and management breakdown between the Chief of Engineers office, and the Office of the Assistant Secretary. Many of these internal communications are embarrassing and demonstrate a lack of judgment by the participants, who probably never anticipated Congressional investigators reading through their e-mails. Major General Flowers has provided written responses to questions, which will be made part of the record, that indicate that he clearly understands the chain of command for his Civil Works responsibilities. General Flowers states that: The Supervisory duties of the Assistant Secretary of the Army (Civil Works) extend to all civil works functions of the Army, including those relating to conservation and development of water resources and the support for others program. The Chief of Engineers reports to the Assistant Secretary on Civil Works Functions.

That is a definitive statement, and I think it should put to rest any rush to make administrative changes to "strengthen" civilian control over the civil works program, at least until General Flowers is well settled in his new job.

It is my view that we should let General Flowers assume his duties for a time before again considering whether or not any sweeping management reforms are necessary. We should also wait to see if the new political leadership that will come

after the elections, no matter who wins, finds that reforms are necessary. I can already read the headlines "Hill Corps Cronies Stop The Reforms." The press can write that if they want to, but that is not the message I want the nominee to take away from the hearing.

General, there have been legitimate policy issues raised on topics like the integrity of Corps' economic analyses, and the future role of the Corps. The issues should be examined and, if necessary, fixed. The committee will watch this closely. The committee also will not tolerate the gridlock that has characterized the relationship between the Chief's office and the Assistant Secretary's office. On the Civil Works Program, it is crystal clear you work for Assistant Secretary. It is also crystal clear you understand it. My charge to you is to make that relationship work.

Later today, Senators Warner, Stevens and I will send a letter to Secretary Caldera. We will make that available once it is delivered. The letters states that:

1. Based on our review of the documents provided, and additional discussions between committee staff and Corps of Engineers personnel with respect to the allegations, we have concluded that while some of the events described in the documents reflect poor judgment on the parts of a number of officials at the Corps, in the Assistant Secretary's office, and elsewhere in the Executive branch, there is not sufficient evidence of inappropriate or illegal conduct to warrant further investigation by the committees at this time.

2. However, based on our evaluation of the documents, we also believe that any significant management reforms are unnecessary at this time.

3. It is evident from the documents that individual personalities significantly contributed to the tension and lack of trust between the military leadership of the Army Corps of Engineers and the civilian leadership of the office of the Assistant Secretary (Civil Works). It is the committees' hope that better communication and new leadership will help address this tension and lack of trust.

4. At a minimum, we strongly believe that further consideration of any management reforms should be deferred until the new Chief of Engineers is confirmed and other new key personnel are in place.

I will include a copy of that letter in the record of this hearing. I am proud of the Army Corps and everything it has accomplished for the nation. Fairly or not, the Corps' reputation has been tarnished lately. I think you have quite a challenge ahead of you, but I know you are ready for the task."

Senator Baucus.

OPENING STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM THE STATE OF MONTANA

Senator BAUCUS. Thank you, Mr. Chairman.

General Bowers, welcome.

General FLOWERS. Thank you, sir.

Senator BAUCUS. Good luck.

[Laughter.]

General FLOWERS. Thank you.

Senator BAUCUS. Mr. Chairman and members of the committee, this nomination comes at a time, as you have indicated, Mr. Chairman, when the Corps is facing a great deal of public scrutiny. There has been criticism of the way some economic and environmental analyses are being done, or in some cases, are not being done. There are some who feel the time has come for sweeping reforms in the Corps; others feel the status quo is just fine.

My own view is that some changes need to be made in order to justify the trust that this committee and the American people must have in the work of the Corps. This committee depends on the professionalism of the Corps, and particularly, in the integrity of the Chief of Engineers' reports, when we consider authorizing Corps projects.

Mr. Chairman, I will have some questions later for General Flowers, but my main point is that the analyses that we are relying on here in the Congress must be the best that can be.

General you have had a very distinguished 31-year career, some of it in very challenging assignments. The position to which the President has nominated you may well be your most challenging. There will be numerous legal, technical, and policy issues to confront, but I hope that you will also address the morale of your employees, especially in light of the ongoing controversies.

I know that Corps employees, both military and civilian, want to do a good job, to take pride in their efforts. In my State, for instance, you have some very fine staff; the manager of the Fort Peck Lake is a perfect example. He's aces. He works closely with everyone in the community. They trust him implicitly. He does a great job at the facility. He is giving the Corps a very good name.

In conclusion, General, I look forward to hearing from you, and I also want you to know that you should feel free to call upon this committee and its members if you need any assistance—or if you need any free advice—as you assume your new role. Good luck.

General FLOWERS. Thank you, sir.

Senator SMITH. Senator Voinovich.

OPENING STATEMENT OF HON. GEORGE V. VOINOVICH, U.S. SENATOR FROM THE STATE OF OHIO

Senator VOINOVICH. Good morning.

General FLOWERS. Good morning, sir.

Senator VOINOVICH. First of all, I want to thank you for visiting with me last week. I enjoyed that. Hopefully we will have a lot more opportunities to visit with each other.

Mr. Chairman, it is nice to know that we have someone before us who has had some roots in Ohio. It makes me feel very good.

I'd like to thank you, General Flowers, for participating in this hearing in anticipation of receiving your third star and command as Chief of Engineers for a 4-year period. It's a long period of time. By the way, I think we ought to do that in all the military, that you all ought to have 4 years and not 3, as it is in some of the other branches.

This has been a difficult year, as you know, for the Corps of Engineers. It is highlighted again this week in a second series of articles in the Washington Post. Many aspects of the Corps' programs are the center of controversy. I was talking to my wife about it this morning and I told her you were coming in, and she said, "Anyone that read those articles has got to be upset." We all realize sometimes that newspapers exaggerate some things, but if you read all those articles, you know there are some real serious problems that need to be addressed by the Army Corps of Engineers.

There are concerns about the environmental impacts of certain projects; charges the Corps' evaluations of projects are not objective; very public and acrimonious arguments about the respective roles of the Chief of Engineers and the Assistant Secretary of the Army for Civil Works; debates about the appropriate mission of the Corps and its growth; arguments about the proper role of Congress versus the executive branch in directing and overseeing the Corps' programs.

This is a watershed, in fact, as far as I am concerned, in terms of the Army Corps of Engineers, and I don't believe that at this stage of the game we can sweep some of this stuff under the rug

and say that we're just going to let it go by the boards. We need to get at it. We need to take it on head-on, and we need to use this as an opportunity to restore people's confidence in the Corps of Engineers.

I am personally concerned about these allegations. As the chairman of the Transportation and Infrastructure Subcommittee, which has oversight over the Civil Works Program of the Corps, I have met with your predecessor and the Assistant Secretary for Civil Works and the Secretary of the Army and extensively discussed these concerns and listened to their assessment of the challenges facing the Corps. I wish you had been privy to those meetings; it would have been very interesting for your background.

What is very clear to me through all of this is that national water resource needs are real and growing. We need to continue to develop and modernize our water transportation system to compete in an increasingly global economy. Flooding remains a threat to many communities. The Corps infrastructure is aging and facing the need for critical maintenance, rehabilitation and replacement, and the expertise of the Corps is needed to help restore the environment.

While these needs grow, our national investment continues to decline. In constant dollar terms, our Federal investment in water resource development is less than one-half of its level in 1960. We have one of these bills, the WRDA bill, kicking around here that is $3 billion that some want Congress to pass. When you think of the unmet needs that we have, just looking at the WRDA bill, $38 billion in projects that have either received design or some construction money that are sitting there and nothing has been done about them. When you think about the fact that you have $450 million in deferred critical maintenance of existing projects—these are real, significant challenges for the Corps of Engineers and for this country.

I would like to say this, that I think it's very important that you first investigate and define the problems facing the Corps, the challenges and the opportunities, and that would include the ongoing investigation of the Upper Mississippi River, as well as many of the problems highlighted in the recent Washington Post series. We can't just discount those and say, "Well, that's just another newspaper article." They've done a good job on this, they have, and there's some serious stuff that needs to be addressed.

As I mentioned to you in my office this week, most of these problems, I think, can be handled by you, by the current and the future Administration, managerially. There a lot of people who say, "Well, we have to start having hearings." Most of this stuff can be worked out with good management and good interpersonal relationships between you and whoever it is that you're going to be working with, and I certainly learned that when I was Governor of Ohio and Commander in Chief of the Ohio National Guard, and with General Alexander. He had his job to do, but it was that relationship that made it either successful or not successful.

I also think it's important that you develop a strategic plan for addressing the many challenges facing the Corps as its new Chief, that you start thinking about that now.

Last but not least, I look forward to working with you in any way that I can on legislative matters that you might feel would make it easier for you to get the job done for the Corps and for our Nation, and I am pleased that you are interested in taking this on at a difficult time.

Senator LAUTENBERG. Mr. Chairman.

Senator SMITH. Senator Lautenberg.

OPENING STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM THE STATE OF NEW JERSEY

Senator LAUTENBERG. Thank you, Mr. Chairman.

General Flowers, we are pleased to have someone of your stature and your experience take this assignment, and you take it to a Corps that is sometimes questioned, but essential to our country's pursuance of its interests, its economy, its quality of life. And let it not be forgotten.

We are concerned in the New York-New Jersey Harbor about the dredging of the harbor. We want to get down to 50 feet. The Corps, in my view, is not only the best but the only place that we can really go to get this important job done.

When I look at dredging, to me it is no different than highway construction. If the trucks get heavier, we change the material, change the dimension, change the structure of the highways. We can't say that "Here, now, because they're building bigger ships, we're going to just lose that business." It's such an important part of the various port economies around the country.

And the Corps has the assignment of keeping us up-to-date in the 21st century, and I expect that you can do it very well.

So there are things—I have a formal text which I would ask to be inserted in the record, Mr. Chairman, but we are pleased to have you take this assignment, and I will fully support your confirmation and look forward in the short time that I have remaining in this organization to working with you. I will not. I will not, however, refrain from calling upon you from either the chairman or other friends that I have here, and I thank you very much for taking on the responsibility.

General FLOWERS. Thank you, sir.

[The prepared statement of Senator Lautenberg follows:]

STATEMENT OF SENATOR FRANK LAUTENBERG, U.S. SENATOR FROM THE STATE OF NEW JERSEY

Good morning Mr. Chairman, members of the committee and General Flowers. I am pleased to have someone of General Flowers experience and stature take over as Chief of the Army Corps of Engineers, and I am looking forward to hearing him present his vision for the Army Corps of Engineers.

I was particularly pleased to read in the information provided to the Senate Armed Services Committee that General Flowers believes the Port of New York and New Jersey 50-foot deepening project to be one of the most "prominent" projects for the nation's navigation system.

The Port of New York and New Jersey is extremely important to the region and the nation. The 50-foot project for the Port of New York and New Jersey is the largest project anticipated for our region in the history of the Port. It is well worth the investment, Mr. Chairman.

Port projects can be compared with highway construction. When trucks became larger and heavier, we improved the highway system to accommodate the new truck standards. We need to do the same for navigation. Now we need to deepen our channels to accommodate the new ship standards.

Improving the nation's infrastructure also helps our economy. Up-to-date infrastructure allows for easier movement of goods, helping manufacturers get raw materials and to ship finished goods to market.

The Port of New York and New Jersey is not a local port, but the Nation's Port. It is located in the center of the largest regional market in the nation. It is the largest container port on the East Coast and the third largest in the United States and serves 34 percent of the population of this nation.

I was also pleased to learn that General Flowers supports so-called "quality-of-life" initiatives that make life better for our citizens. Although General Flowers listed only military quality of life projects, I would argue that shore protection and flood control projects are also "quality of life" initiatives.

Completed flood control and shore protection projects let property owners in flood prone and coastal areas rest much easier. If designed properly, they can significantly improve the overall quality of life in many communities.

On the other hand, I hope that General Flowers will ensure that structural solutions to flooding do not become the first ones we pull off of the shelf simply because they are the ones with which the Army Corps has the most experience.

We have seen how some of the traditional approaches to prevent flooding take too heavy a toll on the environment or simply encourage additional development. I'm pleased that this Administration is moving toward non-structural alternatives through the Challenge 21 Initiative, and I urge General Flowers to continue these efforts.

I would also argue that environmental restoration projects are "quality of life" projects for our environment as well as our citizens. One of these projects, which the Corps has designed is the restoration of Lower Cape May Meadows in New Jersey, which will improve a vital resting area along the Atlantic flyway as well as protect fish and wildlife habitat. The Corps planned projects in Barnegat Bay will restore the habitat for many species of juvenile and harvestable fish and shellfish. And the New York Harbor Estuary program will reduce pollution and protect the natural ecosystem.

Finally, I hope that General Flowers will pay close attention to improving the economic analyses that are prepared by the Corps to justify projects before they can go forward. I believe that one of the ways this can be done is to develop stronger civilian control over the operations of this agency.

I am very interested in hearing how General Flowers hopes to work more closely with the Secretary of the Army and the Assistant Secretary for Civil Works to ensure that only projects that meet the most stringent benefit-cost requirements are approved.

Thank you Mr. Chairman.

Senator SMITH. Senator Lautenberg's full statement will be made a part of the record, and thank you, Senator Lautenberg.

General Flowers, the floor is yours to make any points that you wish to make before the committee.

STATEMENT OF MAJOR GENERAL ROBERT B. FLOWERS, U.S. ARMY, NOMINATED BY THE PRESIDENT TO BE CHIEF OF ENGINEERS, DEPARTMENT OF THE ARMY

General FLOWERS. Thank you, Mr. Chairman and members of the committee. I am deeply honored to appear before you today as the nominee to be Chief of Engineers of the Army Corps of Engineers. I want to thank the President and the Secretary of the Army for giving me this extraordinary opportunity to continue to serve the men and women of this great Nation. If confirmed, I will lead the Army Corps of Engineers into the 21st century with great pride.

The U.S. Army Corps of Engineers has a long and proud tradition of providing invaluable engineering and construction service to the Nation in peacetime and in war. Its military mission includes providing for the defense of American soldiers and furnishing needed housing and facilities for service members and their families. Its civil works mission—fighting floods and developing, preserving,

and protecting critical water resources—is equally vital to the Nation's welfare. The Corps is a dynamic organization that has continually evolved to meet the changing needs of the Nation. From building forts, mapping the uncharted regions of developing America, and constructing flood control and navigation projects to pursuing environmental restoration projects, the Corps of Engineers has responded to the changing needs of America.

If I am confirmed as the Chief of Engineers, I intend to establish a clear direction of leadership for the Corps as it performs its important civil works and military missions. That direction must target the Nation's critical needs and be fully supported by the American people. It must also ensure that Corps employees; have opportunities to achieve their career goals and make contributions that are acknowledged and appreciated.

Historically, the Nation's rich and abundant water and related land resources provided the foundation for the successful development of America. Since the beginning of our Nation, the Corps of Engineers has played a pivotal role in the stewardship of these important resources, initially by developing our Nation's water resources, and later by restoring and protecting the environment. The Corps has improved the quality of life by making America more prosperous, safe, and secure. The Corps must remain flexible in order to continue to make important contributions to the Nation and respond to America's contemporary needs.

Communities nationwide rely on the Corps to reduce flood damages, facilitate navigation, provide needed supplies of water and power, and protect and restore our aquatic resources. The projects approved by Congress represent a sound investment in the Nation's security, economic future, and environmental stability. The Corps' greatest challenge is to find sustainable ways to strengthen the Nation's economy while protecting and restoring our unique water and related land resources for the benefit of future generations.

The Corps faces the demanding tasks of maintaining its vast inventory of existing public improvements and pursuing new projects that develop, conserve, preserve, and protect our aquatic resources. It must provide for a system of ports and inland waterways that will efficiently transport goods. It also must find creative ways to prevent or reduce flood damages. Finally, more and more communities are looking to the Corps to provide adequate sources of potable water and to find new ways to manage wastewater disposal in order to provide for the economic growth and the quality of life that people deserve.

I believe that the Corps must carry out these varied missions in an environmentally responsible manner. The Corps has a long record of coordinating its missions and planning its projects in compliance with the requirements of the National Environmental Policy Act and other environmental laws, which has led to better and more environmentally sensitive projects. If I am confirmed as the Chief of Engineers, I will ensure that all projects are planned and constructed in a manner that avoids or minimizes undesirable environmental impacts.

The challenges the Corps faces are complex and require difficult decisions to be made. These decisions must take into account the requirements of existing law and fiscal constraints. They also in-

volve a balancing of diverse interests. The proper reconciliation of these interests demands open communication. Therefore, I will engage in a cooperative dialog with Congress, other Federal agencies, States, tribes, local governments, and other interested parties in order to find constructive solutions to our Nation's problems.

During the course of this dialog, I am committed to maintaining the integrity of the Corps of Engineers and to making decisions that deserve the full confidence of the American public. If I am confirmed as the Chief of Engineers, I will work cooperatively with all interests and thoroughly consider all points of view. The openness of these discussions will ensure that Corps decisions are objective and are broadly understood and supported.

If I am confirmed as the Chief of Engineers, I expect to work closely with the Administration and Congress as I discharge my leadership duties. I am confident that working in concert, we can marshal the great capabilities of the Corps in a way that maximizes the benefits to the public because we share the common goal of providing for the Nation's well-being.

Should I be confirmed, I look forward to working with this committee in addressing any issues that may arise during my tenure.

Again, I appreciate the opportunity to appear before you today, and would be pleased to answer any questions you may have.

Senator SMITH. Thank you very much, General Flowers. Let me just start with a couple questions.

General you heard the comments that I made in the opening in reference to the letter. In your professional and personal view, is there any ambiguity at all in the reporting relationship between the Army Chief of Engineers and the Assistant Secretary for Civil Works?

General FLOWERS. No, sir.

Senator SMITH. Are there any conditions under which you feel it would be appropriate to withhold information from your superior, the Assistant Secretary?

General FLOWERS. Sir, I can't think of any.

Senator SMITH. I don't want to put you on the spot, but you know we are going to give you a third star for the job, so let me ask you this. I met with the Secretary of the Army just the other day. He told me that the reason civil works management reforms are still necessary is because the relationship—the reporting relationship—between the Chief of Engineers and the Assistant Secretary may have been exploited somewhat, perhaps on both sides. So he just said there is no ambiguity in your reporting.

Is there really any need, then, to move forward on reforms at this time, based on your understanding of that relationship?

General FLOWERS. Sir, there are people involved with this in the Congress and in the Administration that could probably answer that question a lot better than I can, who have had a lot of experience with this.

I am prepared to work—it is very clear in my mind who I work for. In military matters, I report through the Vice Chief of Staff of the Army to the Chief of Staff, and then to the Secretary of the Army. For Civil Works and Installations and Environment, I report to the Assistant Secretaries of the Army, through them to the Secretary of the Army. That's pretty clear to me.

I think I would like the opportunity, before I give you a great answer to that question, to work for a while and work at these relationships. In my mind right now, I see no ambiguity.

Senator SMITH. Assuming you are confirmed, how much time do you anticipate it would take you to settle in to where you could make recommendations, both to the Congress and to the policy folks?

General FLOWERS. Sir, I think this is a very important matter, and it's the first thing that I have to see to. I would say probably within 30 to 60 days.

Senator SMITH. All right. Thank you.

Senator Baucus.

Senator BAUCUS. Thanks, Mr. Chairman.

General this committee has often received testimony that the Corps often fails to fully mitigate environmental impacts of their projects, or that the mitigation sometimes doesn't produce the benefits expected. For example, there is a 30,000-acre backlog of promised uncompleted mitigation within the Vicksburg District alone. This backlog is about 66 percent of the required mitigation within the District.

As follow-up testimony by Dr. Westphal before this committee earlier this summer, I requested information on the Corps-wide backlog of mitigation. I am still waiting for those results.

What is your understanding of the Corps' performance when it comes to mitigating the impacts of projects? For example, our data available on the amount of mitigation required from the Corps over, say, the last 10 years, and how much of this has been successfully completed?

General FLOWERS. Sir, I would like to take the specifics of the answer to your question for the record and provide that to you. I don't have them at hand right now.

[Information supplied follows:]

For those projects that were completed or underway in the last 10 years, mitigation has to the greatest extent been completed. This is due to Section 906 of WRDA 86 which enacted the requirement to mitigate *prior* to or concurrent with construction of a project. Project and mitigation completion, therefore, results from an orchestrated and simultaneously implemented action.

General FLOWERS. I know as a Division Engineer, we worked this problem very hard. If confirmed, you have my commitment that I will look into this matter and I will work the mitigation piece very hard.

Senator BAUCUS. I appreciate that.

Also, assuming the Vicksburg figures are accurate, does that indicate there is a problem? Or does that——

General FLOWERS. Sir, I think those figures are accurate. It indicates something that we have to see to, yes, sir.

Senator BAUCUS. All right.

Have you thought of what changes, if any, are in order related to how the Corps approaches mitigation obligations?

General FLOWERS. Sir, I would like to take that one for the record as well.

[Information supplied follows:]

I believe the Corps needs to continue to ensure that the valuable and significant resources its projects may affect are considered *early* and throughout the planning

process so that wherever possible, avoidance of these resources can be accommodated through the planning process. In those instances after the Corps has done everything reasonable to avoid or minimize those impacts, compensatory mitigation should be implemented in a timely and responsible manner.

In an effort to get a better handle on past and present mitigation activities, the Corps is currently developing an environmental database. With this database the Corps will be able to identify who has worked on similar types of projects, what they did, how impacts were avoided or minimized, and what, if any, compensatory mitigation are needed. A remaining area that needs to be further explored is "mitigation success." Follow-up studies to determine what worked and what did not would be beneficial to the environment and also useful in developing more cost-effective mitigation plans in the future.

General FLOWERS. One thing that I must do when I get on board is to establish a strategic plan and a plan for the organization, and I think that has to be a part of it.

Senator BAUCUS. There have been several proposals offered before this committee with respect to mitigation. One is that the Corps be held to the same mitigation standards as a private developer; as you know, a private developer has to replace an acre of habitat for each acre impacted by a project. That's the private requirement. Should the Corps be held to the same requirement?

General FLOWERS. Sir, I would also like to take that one for the record. I have to give more thought to that before I am able to give you a proper response.

[Information supplied follows:]

Acre for acre mitigation is not a good standard. Under this scenario, you could replace an acre of high-quality wetland with an acre of low-quality wetland. This would provide a net result of losses of environmental outputs associated with our actions: a situation we want to avoid wherever possible. What must be addressed is the physical/chemical-biological value provided by the impacted wetland (or riparian area, etc.), not just the physical boundaries of the area impacted. Determination of impacts, by acreage dimensions alone, can be deceiving. The Corps approach to looking at habitat value is consistent with the policies of the U.S. Fish and Wildlife Service (as described in FR/vol. 46., No. 15/Friday, January 23, 1981). All of their mitigation goals are stated with regard to habitat *value.* Accordingly, from an environmental perspective, the Corps' approach of replacing habitat value is more reflective of losses/impacts than an acre for acre approach.

Senator BAUCUS. I can tell we're going to have a follow-up hearing here pretty soon.

[Laughter.]

Senator BAUCUS. Another question along the same line. The proposal was offered to this committee that the Corps should not recommend a project unless it can be shown that successful, cost-effective mitigation of the project's impacts will be performed.

General FLOWERS. Sir, that sounds pretty good to me.

Senator BAUCUS. Do you think that's a good idea?

General FLOWERS. I do.

Senator BAUCUS. And your reaction to the proposal that along with construction funding, project budgets should include funding for mitigation in order to ensure that there will be money to complete the required mitigation?

General FLOWERS. Sir, I will work to do that.

Senator BAUCUS. Mr. Chairman, at some point I do think it makes sense for us to have some kind of a follow-up hearing, because obviously General Flowers—he will be confirmed, or should be—is in a position where he isn't able to know the answers to a lot of these questions very directly, which, as he indicated, can be expected in some reasonable time period, 30 to 60 days, for him to

have some answers to all this. I strongly suggest that we have a follow-up hearing at an appropriate time and give the General a chance to expand upon the conclusions to some of the questions that have been asked of him.

Senator SMITH. I agree with you. I think it would be appropriate.

General FLOWERS. I would welcome that.

Senator BAUCUS. I thank the General.

Senator SMITH. It would be a good opportunity for you to share your views at that time.

Senator Voinovich.

Senator VOINOVICH. General, over the past year there have been some very public and acrimonious arguments about the respective roles of the Corps of Engineers and the Assistant Secretary of the Army for Civil Works and the supervision of the Corps of Engineers. How do you intend to achieve a more constructive role between the Assistant Secretary of the Army and Civil Works?

General FLOWERS. Sir, I've already met with the Secretary and the Assistant Secretaries, and I've begun the work of establishing a relationship with them. I have prided myself through my career in being able to always find a constructive and positive way to work with my bosses. I don't have any reason to think I couldn't do the same thing here.

Senator VOINOVICH. Mr. Chairman, there has been increasing criticism about the objectivity of the Corps' project evaluation process, including the Upper Mississippi River Navigation Project and the Chesapeake and Delaware Canal Deepening Project.

How are you going to restore confidence in the integrity of the Corps' project evaluation process? And have you reached any conclusions about whether specific changes are needed in the way projects are evaluated and reviewed?

General FLOWERS. Sir, I have not reached any specific conclusions. We do have to address the issues that were highlighted in the series of articles that were done, and I commit to doing that.

Again, if confirmed, I would like the opportunity to come back in 30 to 60 days and talk in greater depth, after I've had a chance to take a look at where we're at on these projects.

Senator VOINOVICH. May I have some more time, Mr. Chairman?

The Corps' role in the restoration of the environment continues to grow. We had some charts here several weeks ago about the expanding scope of the Army Corps of Engineers and the lack of resources. As a matter of fact, prior to this Administration we almost had double the amount of money for WRDA projects. So we have expanded the Corps' responsibilities, and yet we have cut back about 50 percent on the money that's been available.

The issue is, how do you deal with this expanding role and the resources that are not there, and then look at the continuing demands for environmental restoration projects? I mean, all of us have got them. We have them on the Ohio River, $120 million, and so on.

How are you going to handle that in terms of the next Administration? It seems to me to be an almost impossible job. What are you going to say to the next Assistant Secretary of the Army, or if you get a shot at the President, about what you are being asked to do?

General FLOWERS. I would probably say, "Sir, you have a tough job." But I think it is incumbent on the Corps of Engineers and on the Chief to do our best to provide the absolute best advice we can, and whenever you have a situation like we're in now, I think it is incumbent on us, the Corps of Engineers—and we're quite capable of doing it—of laying out what the possibility is, recommending priorities, and then taking our direction from the Administration and the Congress. We're prepared to do that.

But we owe you our best advice on how to proceed to work this.

Senator VOINOVICH. Well, I hope that you have the guts to be courageous enough to speak your mind, because I think it's important that people in your area of responsibility are willing to do that and say, "Look, you're asking me to do a job and you're not giving me the money or the tools to get it done." It's just like the O&M money. I mean, we have the Everglades Restoration Project, where we're changing the formula. It will be a 50/50 deal, and we have a backlog of $450 million worth of O&M. It seems to me that—you're talking about something that's almost impossible to get done.

The other thing that I noted in your testimony that struck a discordant note, and the only discordant note, was the fact that you talked about "water projects and wastewater." Getting into wastewater projects, which I think are fundamentally the responsibility of State and local governments, even the water projects, don't you think you've got your hands full enough without taking on those responsibilities? That will never end. You will be forever behind if you get involved in that kind of thing.

General FLOWERS. Sir, I highlighted that because I think it's a capability that the Corps has. Whether it is utilized and how it is utilized is something that we could make recommendations on, but it wouldn't be for us to say.

So I think that, as you say, the plate is very, very full, and we owe you our best recommendation on how we can address work for the future, and I assure you we will pass that through the boss to you all, sir.

Senator VOINOVICH. Thank you.

Senator SMITH. Senator Thomas.

OPENING STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR FROM THE STATE OF WYOMING

Senator THOMAS. Thank you, Mr. Chairman. I'm sorry I was a little late. I was involved with the Joint Session, with the Prime Minister of India.

Welcome, General. We're glad to have you here. Thank you very much for taking time to come by and visit in the last day or so.

Certainly, the Corps of Engineers is an important function, one that has, in my view, some very clear responsibilities and very clear authorities, and I am supportive of those. I do think that there has been and continues to be a clear need for a definition of roles, a definition of Corps activities, a definition of what this Corps really ought to be doing, and I think that's been very unclear, frankly. At least from what I read and from what I've heard, the chain of command needs to be cleared up and needs to be used more thoroughly. I think, again, the things we've heard lately and

the reports we've had could cause one to think that this is sort of a self-perpetuating bureaucracy. I don't think that we want to have that be the case; I'm quite sure that you don't.

So I would hope that one of the first things that is done is to—with the involvement of this committee, with the involvement of the Congress, with the involvement, certainly, of the Secretary and the Pentagon—there ought to be a clear definition of the role of the Corps of Engineers. I happen to be one who has worked and will continue to work on the idea that the Government ought to do those things that are inherently governmental, and those things that are not ought to have an opportunity to be contracted to the private sector. Certainly many of the things that you do are the kinds of things that are indeed done in the private sector. I can't define that, but we have asked—in fact, passed a law—that each of the agencies define those things and talk about those things that can only be done by Government and are inherently governmental in nature, and those things that are not, and move toward using more of the private sector in a contracting arrangement. I feel very strongly about that; not only in this agency, but in others.

Of course, if that indeed is implemented—and it frankly hasn't been implemented as well as it should be—if it is implemented, then the role, often, of the agency, and perhaps in your agency, would be to very proficient at the oversight and the management of contracts, which is something that I think is very important.

So I think many of us are a little confused or a little concerned about the so-called "support for others" idea, and the school work in the District of Columbia, which seems fairly inappropriate for a military function and a Corps function. These are the kinds of things that I hope you would take a look at.

Are you familiar with the obligation of an agency to define the functions that they have with respect to whether or not they are inherently governmental, or whether or not they could indeed be contracted to the private sector?

General FLOWERS. Sir, I am familiar with the concept.

Senator THOMAS. Then what do you propose to do about it?

General FLOWERS. Sir, I agree with you. I think those things that can be contracted out reasonably should be, and if I am confirmed I will work as best we can to determine those functions that are inherently governmental that we need to be competent in in order to accomplish the missions we have been given; we will retain those, and the rest we will try to contract.

Senator THOMAS. I appreciate that. Like the chairman and the Senator from Montana, I hope that you are able to come back in several months after you've had a chance to take a look at it. I know that it is a difficult task. Certainly, I think the obligation of all of us is to work together to do what we believe is the best thing for the Corps of Engineers and the best thing for the country.

General FLOWERS. Yes, sir.

Senator THOMAS. I know that's your commitment.

Mr. Chairman, I am sure you have covered most of the things that I'm hitting on, so I won't take more of your time.

But I do welcome you and wish you well. I am sure everyone has made it clear that we would certainly like to work with you in

achieving some of the goals that I hope are common to all of us. Thank you, sir, for being here.

General FLOWERS. Thank you, sir.

Senator SMITH. I have a couple final questions before we close, but Senator Baucus, do you have any further questions?

Senator BAUCUS. Just briefly, Mr. Chairman.

General it just seems to me that the heart of the problem is restoring integrity in the process. The next question is, how do you do that?

It seems to me that part of the solution lies, perhaps, in more of these decisions being decided in the open, so that both the Corps professional staff, the public, and the Congress know what the decisions are and why those decisions are reached. This is what I mean.

Clearly, the Corps' professional staff is analyzing these projects, using the criteria that have been prescribed. But we are a democracy. The Corps should not make all the decisions, only, without any congressional input.

On the other hand, Congress should not unduly, inappropriately, or unfairly influence—in my judgment, anyway—the professional judgment of the Corps. But it is not a bright line between the two. It is a little blurry. There may be some times when strict Corps criteria can come close to recommending a positive result in a recommendation for a project, but not quite. But because of other political concerns—and I use politics with a small "p"—I'm talking about rural areas that need development of a project, or maybe some emergency somewhere, that it might be appropriate to still go ahead and have that project developed, so long as the public understands why that decision was reached. That is, it's in the open. I don't know how you get more of this in the open.

The Corps also wants to be able to appropriately resist inappropriate political pressure. I would think you would want to figure out some way to do that. One way to do that is perhaps if more of these decisions were taken in the open; then it would be harder for inappropriate political pressure to push, and easier for appropriate professional decisions to the contrary to stand.

I think that that's part of what's going on here, and I urge you to be thinking about all this when you come back to talk to us. You may have some private suggestions, too, about how to do some of this. But I do think that with more public awareness and scrutiny of what's going on with some of these stories that are occurring, appropriately, they would not have occurred.

There are members of the Senate and the House who will push you—I won't say inappropriately, but they will raise some questions in your mind. You shouldn't be in that spot. There should be a process of some kind so that it makes it easier for the Corps to stand up and say, "Hey, wait a minute, this is just totally nuts. I'm sorry, this is just totally inappropriate," and be able to stick by that and not fear retaliation, not fear adverse consequences.

Senator THOMAS. Mr. Chairman, to follow on that, in the Park Service we did a thing in our bill a couple years ago that sort of required a study—and I don't mean to take forever—but that instead of a decision just being made here in the Congress—that that proposal would be set out there; it would be a chance to take a look

at it and come back and report on, in this case, the Corps' feelings about a project that came directly from here, because I agree with you. We're being a little critical of the Corps, but part of this contribution comes from members of Congress who go ahead and push through projects that may or not be appropriate.

Thank you.

Senator SMITH. We are working on that backlog, however.

General one of the issues that was raised—I think appropriately—by the series of articles in the Post was the issue of economic analysis and the potential for manipulating that analysis for whatever reason. Maybe it's the political pressures that Senator Baucus just referred to, or perhaps some other reason. These are very subjective, as you know. There are a lot of different variables and criteria and, as I say, sometimes the objectives are vague, for sure. There is a concern that somehow we cook the numbers or skew the results to get the so-called "right answer" that is desired by someone, whether it be a superior in the executive branch or a Congressman or a Senator, which obviously is not what the Corps should be about.

I am certainly not a fan of additional bureaucracy, but how do you feel about an independent peer review on some of these projects? I'm not asking you the question as an advocate, but just as one who is looking for some way to perhaps dispel some of that concern. I am sure some of it is justified, no question.

As to how we might deal with that, would peer review work? Or would that encroach too much on what the Corps needs to do? What's your view on that?

General FLOWERS. Sir, I think——

Senator SMITH. Independent. Not executive or legislative, but some independent source.

General FLOWERS. Yes, sir. Philosophically, I think it may be part of the solution to get at what Senator Baucus is talking about, making things more open and making people have a little more confidence in the decisions that are made.

I would say, though, that you would have to look at it on a case-by-case basis. You're going to be overlaying a peer review on top of a process which is already very lengthy and has extensive public involvement. I commit to making sure that those processes are as open as they possibly can be.

So I think you would have to evaluate whether the cost and the time that it would take to do a peer review for a project would be worth the bang for the buck. If it's deemed that it is, I would certainly be in favor of it.

Senator SMITH. A final question from me. You are about to assume the helm here. Any specific priorities or vision that you would like to share with us as far as—I'm not asking you to get into the management reform issue; that's not the intent here—but any vision, as you go into the 21st century as you alluded to in your statement, that perhaps some priorities as opposed to management changes? I'm not trying to drag you into that at this point.

General FLOWERS. Sir, the first priority is for me to get in and get very comfortable with the organization, and I think I can do that, based on my experience, fairly quickly, to make sure that I am seeing to the morale of the great people who make up the Corps

of Engineers, get them on board with me in moving into the future, to find a way to reacquaint the American people with the Corps of Engineers, who we are and what we do, and to work hard to establish your confidence and the confidence of the other stakeholders in what we do, so that when we tell you something and make our recommendations, they are based on absolutely the best science and engineering and judgment that we can apply.

Having said that, my intent is to very quickly work with all of the Administration, the Corps, the Congress, in establishing a campaign plan for the future for the Corps that will get us as quickly to work as we can on those things that are important.

Senator SMITH. Senator Voinovich, you had a couple more questions? Go ahead.

Senator VOINOVICH. You probably don't have the answer to this, but it's my understanding that the release of the Army Inspector General report on the Upper Mississippi-Illinois Waterway Project has been delayed for 60 days, and that this delay was not requested by the Army. Do you have any information on that?

General FLOWERS. No, sir, I don't.

Senator VOINOVICH. Could you find out?

General FLOWERS. Yes, sir.

[Information supplied follows:]

I have been told that on August 14, 2000, based on need to finalize preparation and review of its report, the Department of the Army Inspector General (DAIG) requested a 45-day extension of time for submitting its report to the Special Counsel, until October 12, 2000. With the Office of the Secretary of Defense's (OSD) concurrence, the Army forwarded that request for extension to the Special Counsel, and it was approved. I understand that the Army forwarded the DAIG report to OSD on September 20, 2000.

Senator VOINOVICH. Is it incomplete, not ready to go? Or is it ready to go and someone is just holding it back?

General FLOWERS. Sir, I have no knowledge of the results of the IG report, and I don't know if it's been concluded or not, quite frankly.

Senator VOINOVICH. Well, I'd like to know about it.

General FLOWERS. OK, sir, I'll see what I can do.

Senator SMITH. Thank you very much, General Flowers. We appreciate your being here. We will pass the information from the hearing on to Senator Warner, and I am sure Senator Warner will move appropriately to move the nomination to the floor of the Senate.

Let me just cover a couple housekeeping details. We will leave the record open until Tuesday at 5 p.m. for members who may wish to ask questions or for any responses for the record that you had agreed to provide to other Senators.

For the benefit of the media, if the letter has been signed by the other chairman—I am just told it has not been, so we will make that letter available as soon as it is, and you can contact the press department of the committee and we can provide that letter to you. It should be shortly. I don't want to give it out before the Senator has signed it.

With that, the hearing is adjourned.

[Whereupon, at 10:50 a.m., the committee was adjourned, to reconvene at the call of the chair.]

[Additional statements submitted for the record follow:]

STATEMENT OF SENATOR BARBARA BOXER, U.S. SENATOR FROM THE STATE OF CALIFORNIA

Thank you, Mr. Chairman.

I would like to welcome Major General Flowers to the committee this morning. It was my pleasure to meet with Major General Flowers earlier this week to discuss the work of the Corps in California and the Nation. I congratulate you on your appointment to this post.

The Corps has been a positive partner in many projects in California. The Corps, for example, has worked closely with Napa County, California, to provide flood protection not by taming the Napa River, but by restoring the River's natural floodplain.

I think it's fair to say, though, that this and the other positive work of the Corps in my State has been overshadowed today by the constant reports of Corps mismanagement.

We've learned of the Corps military commanders lobbying Congress for $2 billion more in appropriations without authorization from their civilian leaders or this Administration. We've learned that Corps military commanders have directed their civilian staffs to rig cost-benefit analyses to justify otherwise unjustifiable billion dollar projects. We've learned that the Corps sometimes flouts the very environmental laws they are charged with enforcing against the private sector.

I think that it is in this committee's strong interest and in the Corps' strong interest to begin to seriously look at common sense reforms.

I believe that meaningful reform is the only way to restore the public trust and integrity that I know is so important to both the civilian and military leaders of the Corps. Reforms like subjecting Corps' projects to independent review and modernizing the environmental rules that guide the Corps' work could go a long way to accomplishing those goals.

And there are specific cases in California where the Corps can put those reforms to work even before we formalize nationwide policy or legislation to do so.

Independent review of the Corps' work, for example, is something that is critically important to the local residents of San Bernardino, California. There the Corps has studied and recommended the removal of the Deer Creek levee. The Corps says removal of the levee will not decrease the community's flood protection. The community funded their own study which raised substantial questions about the Corps analysis.

Independent review in this case would ensure that mistakes are not made that endanger the health and safety of the people or that lead to flood damage. I hope that you will work with me by committing to subjecting the Corps' study in this case to an independent review.

The Corps can also go a long way to restoring the public trust in my State by removing the 2,200 tons of radioactive waste it dumped in an unlicensed California dump. I have had countless meetings with the Corps, co-chaired a hearing of this committee on this incident and continued to press the Corps to remove this waste from California.

Much to my great disappointment and the disappointment of the people I serve, that waste is still sitting in an unlicensed California dump. I hope that you will work with me to put the Corps' reputation right on this issue by removing that waste from my state.

I look forward to working with you on these issues. I think we can make progress on them.

Thank you, Mr. Chairman.

STATEMENT OF SENATOR MAX BAUCUS, U.S. SENATOR FROM THE STATE OF MONTANA

Thank you, Mr. Chairman, for holding this hearing and I want to join you in welcoming Major General Flowers here this morning.

General Flowers' nomination comes at a time when the Corps is facing a great deal of public scrutiny for the way they do business. There has been criticism of the way some economic and environmental analyses are being done, or, in some cases, not being done at all.

There are some who feel the time has come for sweeping reforms at the Corps. Others feel that the status quo is just fine.

My own view is that some changes need to be made in order to justify the trust that this committee, and the American people, must have in the work of the Corps of Engineers.

This committee depends on the professionalism of the Corps and, in particular, on the integrity of the Chief of Engineers' reports when we consider authorizing

Corps projects. I will have some questions about this later for General Flowers. My main point is that the analyses that we are relying on must be the best that they can be.

General, you have a distinguished 31-year record of service to your country, some of it in very challenging assignments.

Yet the position to which the President has nominated you may well be your most challenging.

There will be numerous legal, technical, and policy issues to confront. But I hope you will also address the moral of your employees, especially in light of the ongoing controversies.

I know the Corps employees, both military and civilian, want to being doing a good job. To take pride in their efforts. In my state, for instance, you have some fine staff. The manager at Fort Peck Lake is a perfect example. He works closely with everyone in the community and does a great job at that facility. He is giving the Corps a good name.

In conclusion, General Flowers, I look forward to hearing from you this morning. I also want you to know that you should feel free to call on this committee and it's members if you need any assistance—or even free advice—as you assume your new role.

STATEMENT OF SENATOR GEORGE V. VOINOVICH, U.S. SENATOR FROM THE STATE OF OHIO

Thank you General Flowers for participating in this informational hearing in anticipation of receiving your third star and command as Chief of Engineers for a 4-year period. This has been a difficult year for the Corps of Engineers. As highlighted again this week in a second series of articles in the Washington Post, many aspects of the Corps program are in the center of controversy. There are concerns about the environmental impacts of certain projects, charges that the Corps evaluation of projects is not objective, very public and acrimonious arguments about the respective roles of the Chief of Engineers and the Assistant Secretary of the Army for Civil Works, debates about the appropriate mission of the Corps and its growth, and arguments about the proper role of the Congress versus the executive branch in directing and overseeing the Corps program.

I am personally very concerned by these many allegations. As the chairman of Transportation of Infrastructure Subcommittee, which has oversight over the civil works program of the Corps, I have met with your predecessor, and the Assistant Secretary for Civil Works, and the Secretary of the Army and extensively discussed these concerns and listened to their assessment of the challenges facing the Corps.

What is very clear to me through all of this is that national water resources needs are real and growing. We need to continue to develop and modernize our water transportation system to compete in an increasingly global economy; flooding remains a threat to many communities; the Corps infrastructure is aging and facing the need for critical maintenance, rehabilitation and replacement; and the expertise of the Corps is needed to help restore the environment.

While these needs grow, our national investment continues to decline. In constant dollar terms our Federal investment in water resources development is less than one-half of its levels in the 1960's. At the same time we are asking the Corps to do more particularly in the area of environmental restoration. The lack of investment has created a backlog of $38 billion in projects awaiting construction dollars and $450 million in deferred critical maintenance of existing projects.

- I think that it is very important that you first investigate and define the problems facing the Corps.
- These would include the ongoing investigation of the Upper Mississippi River, as well as many of the problems highlighted in the recent Washington Post series.
- As I mentioned to you in my office this week, most of these problems should be handled with an Administrative view.
- As a former Mayor and Governor, it is my belief that many of the problems can be addressed by strengthening the relationship between yourself and the Assistant Secretary of the Army for Civil Works and the Secretary of the Army.
- I also think that it is important that you develop a strategic plan for addressing the many challenges facing the Corps as the new Chief.
- I look forward to working with you in the future on legislative solutions, where appropriate, for dealing with the many challenges ahead.

STATEMENT OF MAJOR GENERAL ROBERT B. FLOWERS, NOMINEE FOR CHIEF OF ENGINEERS

Thank you Mr. Chairman and members of the committee. I am deeply honored to appear before you today as the nominee to be Chief of Engineers of the Army Corps of Engineers. I want to thank the President and the Secretary of the Army for giving me this extraordinary opportunity to continue to serve the men and women of this great Nation. If confirmed, I will lead the Army Corps of Engineers into the twenty-first century with great pride.

The United States Army Corps of Engineers has a long and proud tradition of providing invaluable engineering and construction service to the Nation in peacetime and in war. Its military mission includes providing for the defense of American soldiers and furnishing needed housing and facilities for service members and their families. Its civil works mission—fighting floods and developing, preserving and protecting critical water resources—is equally vital to the nation's welfare. The Corps is a dynamic organization that has continually evolved to meet the changing needs of the nation. From building forts, mapping the uncharted regions of developing America, and constructing flood control and navigation projects to pursuing environmental restoration projects, the Corps of Engineers has responded to the changing needs of America.

If I am confirmed as the Chief of Engineers, I intend to establish a clear direction of leadership for the Corps as it performs its important civil works and military missions. That direction must target the nation's critical needs and be fully supported by the American people. It also must ensure that Corps employees have opportunities to achieve their career goals and make contributions that are acknowledged and appreciated.

Historically, the Nation's rich and abundant water, and related land resources provided the foundation for the successful development of America. Since the beginning of our nation, the Corps of Engineers has played a pivotal role in the stewardship of these important resources, initially by developing our nation's water resources, and later by restoring and protecting the environment. The Corps has improved the quality of life by making America more prosperous, safe, and secure. The Corps must remain flexible in order to continue to make important contributions to the Nation and respond to America's contemporary needs.

Communities nationwide rely on the Corps to reduce flood damages, facilitate navigation, provide needed supplies of water and power, and protect and restore our aquatic resources. The projects approved by Congress represent a sound investment in the nation's security, economic future, and environmental stability. The Corps' greatest challenge is to find sustainable ways to strengthen the nation's economy while protecting and restoring our unique water and related land resources for the benefit of future generations.

The Corps faces the demanding tasks of maintaining its vast inventory of existing public improvements and pursuing new projects that develop, conserve, preserve and protect our aquatic resources. It must provide for a system of ports and inland waterways that will efficiently transport goods. It also must find creative ways to prevent or reduce flood damages. Finally, more and more communities are looking to the Corps to provide adequate sources of potable water and to find new ways to manage wastewater disposal in order to provide for economic growth and the quality of life that people deserve.

I believe that the Corps must carry out these varied missions in an environmentally responsible manner. The Corps has a long record of coordinating its missions and planning its projects in compliance with the requirements of the National Environmental Policy Act and other environmental laws, which has led to better and more environmentally sensitive projects. If I am confirmed as the Chief of Engineers, I will ensure that all projects are planned and constructed in a manner that avoids or minimizes undesirable environmental impacts.

The challenges the Corps faces are complex and require difficult decisions to be made. These decisions must take into account the requirements of existing law and fiscal constraints. They also involve a balancing of diverse interests. The proper reconciliation of these interests demands open communication. Therefore, I will engage in a cooperative dialog with Congress, other Federal agencies, States, Tribes, local governments, and other interested parties in order to find constructive solutions to our nation's problems.

During the course of this dialog, I am committed to maintaining the integrity of the Corps of Engineers and to making decisions that deserve the full confidence of the American public. If I am confirmed as the Chief of Engineers, I will work cooperatively with all interests and thoroughly consider all points of view. The openness

of these discussions will ensure that Corps decisions are objective, and broadly understood and supported.

If I am confirmed as the Chief of Engineers, I expect to work closely with the Administration and Congress as I discharge my leadership duties. I am confident that working in concert, we can marshal the great capabilities of the Corps in a way that maximizes the benefits to the public because we share the common goal of providing for the nation's well-being.

Should I be confirmed, I look forward to working with this committee in addressing any issues that may arise during my tenure. Again, I appreciate the opportunity to appear before you today, and would be pleased to answer any questions you may have.

MAJOR GENERAL ROBERT B. FLOWERS, U.S. ARMY

Source and Year of Commissioned Service

ROTC.

Military Schools Attended

Engineer Officer Basic and Advanced Courses
United States Army Command and General Staff College
National War College

Educational Degrees

Virginia Military Institute—BS Degree—Civil Engineering
University of Virginia—MS Degree—Civil Engineering

Foreign Languages

None recorded.

Promotions and Dates of Appointment

2LT—4 Jun 69
1LT—4 Jun 70
CPT—4 Jun 71
MAJ—5 Mar 80
LTC—1 Aug 85
COL—1 Jun 90
BG—1 Nov 94
MG—1 Sep 97

Major Duty Assignments

Jan 70–Jan 72: Construction Platoon Leader, later Commander, B Company, 94th Engineer Battalion, United States Army Europe, Germany;

Jan 72–Oct 72: S–3 (Operations), 94th Engineer Battalion, United States Army Europe, Germany;

Oct 72–Mar 73: Assistant Facilities Engineer, United States Army Garrison, Fort Monroe, Virginia;

Apr 73–Mar 74: Facilities Engineer, United States Army Udorn Detachment, United States Army Support Command, Thailand;

Mar 74–Jan 76: Student, University of Virginia, Charlottesville, Virginia;

Jan 76–Aug 76: Student, Engineer Officer Advanced Course, United States Army Engineer School, Fort Belvoir, Virginia;

Aug 76– Jun 80: Assistant to the Area Engineer, later Civil Engineer, and later Research Engineer, United States Army Engineer District, Portland, Oregon;

Jun 80–June 81: S–1 (Adjutant), 20th Engineer Brigade, Fort Bragg, North Carolina;

Jun 81–Jun 83: S–3 (Operations), later Executive Officer, 307th Engineer Battalion, 82d Airborne Division, Fort Bragg, North Carolina;

Jun 83–Jun 84: Student, United States Army Command and General Staff College, Fort Leavenworth, Kansas;

Jun 84–May 85: Combat Developments Systems Manager, United States Army Combined Arms Command for Combat Developments, Fort Leavenworth, Kansas;

May 85–Jun 87: Commander, 307th Engineer Battalion, 82d Airborne Division, Fort Bragg, North Carolina;

Jun 87–Jun 88: Student, National War College, Fort McNair, Washington, DC;

Jun 88–Apr 90: Operations Officer, later Chief, Host Nations Operations Branch, J–3, The Joint Staff, Washington, DC;

May 90–Jun 92: Commander, 20th Engineer Brigade, XVIII Airborne Corps, Fort Bragg, North Carolina and OPERATIONS DESERT SHIELD/STORM, Saudi Arabia;

Jun 92–Dec 92: Deputy Assistant Commandant, United States Army Engineer School, Fort Leonard Wood, Missouri;

Dec 92–Mar 93: Unified Task Force Engineer, United Nations Task Force, OPERATION RESTORE HOPE, Somalia;

Mar 93–Jul 94: Deputy Assistant Commandant, later Assistant Commandant, United States Army Engineer School, Fort Leonard Wood, Missouri;

Jul 94–Aug 95: Assistant Division Commander, 2d Infantry Division, Eighth United States Army, Korea;

Aug 95–Jul 97: Commanding General, United States Army Engineer Division, Lower Mississippi Valley, Vicksburg, Mississippi.

Summary of Joint Assignments

Operations Officer, and later Chief, Host Nation Operations Support Branch, J–3, The Joint Staff, Washington, DC: Jun 88–Apr 90; Lieutenant Colonel.

U.S. Decorations and Badges

Distinguished Service Medal
Legion of Merit (with 2 Oak Leaf Clusters)
Bronze Star Medal
Defense Meritorious Service Medal
Meritorious Service Medal (with Oak Leaf Cluster)
Army Commendation Medal (with 3 Oak Leaf Clusters)
Master Parachutist Badge
Ranger Tab
Joint Chiefs of Staff Identification Badge

RESPONSES BY MAJOR GENERAL FLOWERS TO ADDITIONAL QUESTIONS FROM SENATOR INHOFE

Question 1a. Wetlands mitigation banks have proven to be very successful in restoring and enhancing high quality wetlands across the nation. One reason for that success is that the Federal guidance on mitigation banking issued in November, 1995 sets standards that all mitigation banks must meet before the Corps (with the consensus of other Federal and State review agencies) approves a mitigation bank.

However, so-called "fee-in-lieu payments," in which an applicant pays a fee into an account "in lieu" of performing onsite mitigation, are not subject to similar standards. In addition, it appears that some fee in lieu programs have collected fees, but failed to restore or enhance any wetlands. While I support the continued availability of such programs, I want to ensure that wetlands mitigation is actually performed.

Recently EPA circulated a draft guidance for fee in lieu payment programs that established some standards. In addition, the draft guidance established a preference for the use of mitigation banks over fee in lieu payments where both are available to applicants. What is the status of the draft guidance?

Response. The draft guidance is currently pending agency signature approval.

Question 1b. What is the Corps' position on the draft guidance?

Response. The Corps supports a most recent version of the guidance that would provide some technical and procedural information to support better mitigation projects. The Corps' Institute for Water Resources recently conducted an investigation of seven representative in-lieu-fee arrangements. The initial findings from that study indicate that the development of future in-lieu-fee arrangements could benefit from guidance concerning, fee setting, cost accounting, transfer of liability, and increased interagency involvement. All of these are addressed in the most recent draft of the guidance under consideration.

Question 1c. How many dollars in fees have been collected under in lieu fee mitigation program under the Section 404 program?

Response. The Corps' automated information systems for tracking statistical information about regulatory actions does not store the number of dollars collected by in-lieu-fee arrangements.

Question 1d. How many acres of wetlands have been restored, enhanced, created or preserved under fee-in-lieu mitigation programs under the Section 404 program?

Response. The Corps' automated information systems also do not differentiate among the methods or types of mitigation projects. The systems are designed to provide the aggregate number of acres of mitigation required, irrespective of the production source or method.

Question 2. On FEMA's role on the new Nationwide Permits, you seemed to imply that FEMA's only real role will be to supply the floodplain maps. If permits are filed for activities within the floodplain, will FEMA have any kind of decisionmaking authority?

Response. FEMA does not have any decisionmaking authority for permit applications for activities requiring a Corps' permit within floodplains.

Question 3. On pending regulations you noted that the Corps issued proposed rules in April and August and that another proposed rule is expected shortly on discharge of fill material into isolated wetlands. We are getting awfully late in this Administration to be pushing three major rulemakings like this. I am afraid that these regulations are being rushed in order to appease a few special interest groups. I am requesting that you pledge on behalf of the Corps to keep this committee and in particular my subcommittee informed.

Response. If I am confirmed, I assure you that the Corps will keep the committee and the subcommittee informed regarding these three rulemakings. At this time the status of these rulemakings has not changed from my previous response.

RESPONSES BY MAJOR GENERAL FLOWERS TO ADDITIONAL QUESTIONS FROM SENATOR CRAIG THOMAS

Question 1. What is the Corps' definition of inherently governmental functions?

Response. I am aware of only two definitions of inherently governmental functions.[1] One is contained in the Office of Management and Budget (OMB) Circular Number A–76, Performance of Commercial Activities, which establishes Federal policy regarding the performance of commercial activities and implements the statutory requirements of the Federal Activities Inventory Reform (FAIR) Act of 1998 (Public Law 105–270). The other is contained in the FAIR Act itself. The OMB Circular Number A–76 definition provides as follows:

An inherently governmental function is a function which is so intimately related to the public interest as to mandate performance by Government employees.

The FAIR Act definition provides as follows:

The term "inherently governmental function" means a function that is so intimately related to the public interest as to require performance by Federal Government employees. (Pub. L. 105–270, sec. 5(2)(A)).

To my knowledge, there is no separate Corps definition of the term, and the Corps would implement the definitions quoted above as appropriate.

Question 2. It is my understanding that the Corps is reviewing its policy regarding school construction and the support for others (SFO) program. It is also my understanding the new policy is due November 1. What policy changes will you propose to make sure that the local districts are deferring commercial activities to the private sector? I would appreciate you sharing the new policy with me when it is implemented.

Response. With regard to providing assistance to schools, I understand that Corps headquarters has already instructed its local districts that headquarters approval is necessary before they agree to provide any more support. This process is already functioning and has already resulted in the Corps declining work.

I also understand that the Corps is developing a new SFO policy that will be ready by the end of November. This policy will place strict controls on accepting new work. It will contain criteria outlining when approval of the Headquarters and the appropriate Assistant Secretary is required. It will require that an exit strategy for Corps withdrawal be developed initially for any new work for State and local governments. This policy will also emphasize the Corps/industry partnership necessary to accomplish the work with the actual execution being accomplished primarily by the private sector. We will be happy to share additional details with you after the new policy is developed.

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[1] There is one other special statutory definition contained in section 196 of the National and Community Service Trust Act of 1993 (Public Law 103–82 (42 U.S.C. sec. 12651g(a)(1)(C) (iii)). It provides that volunteers may not perform inherently governmental functions which, for purposes of that provision, are defined to mean "any activity that is so intimately related to the public interest as to mandate performance by an officer or employee of the Federal Government, including an activity that requires the exercise of discretion in applying the authority of the Government or the use of value judgment in making a decision for the Government."

RESPONSES BY MAJOR GENERAL FLOWERS TO ADDITIONAL QUESTIONS FROM SENATOR RON WYDEN

Question 1. Legislation has recently been introduced to reform how the Corps operates. One element of the legislation is a requirement that major Corps projects undergo an independent review to ensure that taxpayers will receive at least as much benefit from a project as it costs and the project is environmentally sound. Corporations must undergo independent financial audits of their operations. And scientists must subject their work to independent peer review. Why shouldn't the Corps' studies and analyses be subject to an independent review?

Response. Studies and analyses undertaken by the Corps are subject to independent review. While the independent review process extant at the Corps is not a formalized peer review process such as is practiced by the scientists and engineers in the research community, the process in place for major studies includes many opportunities for comment by, and consultation with, stakeholders, elected officials at all levels, technical experts, and the general public before recommendations are submitted to Congress.

I would be willing to consider the need for a formalized independent peer review program. I note, however, that such a program likely would be overlaid upon the current process with the existing checks and balances, which already ensure the integrity of Corps of Engineers project proposals. The Corps currently studies its potential projects in accordance with Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies) set forth in Executive Order 12322. Environmental considerations, including strict compliance with the National Environmental Policy Act of 1969, are an integral part of the study and planning for every Corps project. This study process requires extensive public involvement opportunities and provides for multiple reviews to ensure objectivity, including independent technical reviews, a minimum of two formal public reviews, Washington-level policy review, State and agency coordination requirements, and final review by the executive branch under Executive Order 12322.

Thus, under its existing study process, the Corps thoroughly assesses the economic justification and environmental suitability of each potential Corps project before making a recommendation for appropriate action through the Secretary of the Army to the Congress. The Congress then decides whether to authorize implementation of a project after conducting such congressional hearings and deliberations as the Congress deems appropriate.

Only about 16 percent of all Corps studies lead to projects for construction. In other words, the Corps study process weeds out 84 percent of the potential projects authorized for study by Congress. Collectively, the projects that have survived the rigorous process and that have been constructed have provided the Nation an average annual return on investment of over 26 percent. This impressive result strongly assures the authorizing and appropriations committees that the Corps is doing a good job of recommending projects that are of great benefit to the Nation.

Moreover, the Corps recently commissioned the National Research Council of the National Academy of Sciences to review and recommend how to improve the Corps' planning processes. The Council's 1999 study findings generally affirmed the Corps' process. Nevertheless, the Council made some recommendations for improving the process, and I understand the Corps is revising and clarifying the process to reflect those recommendations. Notably, the National Research Council did not recommend outside review as a means to further improve the process.

In addition, in recent years, project sponsors and the Congress have implored the Corps to change the project delivery process to address pressing needs more expeditiously. The Corps has responded to such entreaties by streamlining the process to make it more efficient and timely. Overlaying a requirement for the involvement of an outside review agency would slow the process down, eroding any improvements that have been made thus far. The costs of such a review, in lost time, may far outweigh marginal benefits that might be gained over an existing process which already eliminates 84 percent of the potential projects authorized for study by Congress.

Clearly, the Corps' study process already ensures independent technical review, as well as full and open public participation on Corps of Engineers project proposals, that final recommendations are unbiased, based on the best science available, and that the path chosen is in the public interest. Again, while I am not opposed to considering establishment of a formalized independent peer review program in principle, I do believe that overlaying such a program over an already existing process that accomplishes much the same may detract from the Corps' efforts to be more responsive to the desires of both project sponsors and the Congress for the Corps to streamline the process for improved efficiencies and timeliness.

Question 2. Corps officials recently told my staff that the Corps won't follow a directive concerning repair of the East Astoria Boat Basin included in the Senate Energy and Water Appropriations Report. According to these officials, the Corps will only follow the directive to repair the Astoria Boat Basin if it is included in the bill itself. What is the Corps' position concerning its obligation to follow Congressional directives concerning Astoria and other projects named in report language?

Response. Considerable discussion occurred within the Corps over the application of past laws and regulations to the Astoria East Boat Basin project and the Senate committee report language. Upon further legal review in Portland District, it has been recommended that the Senate committee report language be followed. The Corps regrets any confusion that resulted from the lengthy review of this matter.

Question 3. In 1988, the Port of Astoria entered into a local cooperation agreement with the Corps of Engineers to restore the deteriorating breakwater that protects the fishing fleet. The Port made a number of improvements to its Boat Basin, including 30 new slips, a new parking lot, and resurfaced the roadway. All these improvements were done with the Corps' approval. To date, the Port has spent $1.3 million in improvements since the agreement with the Corps as the local share of the project. Given that the Port has paid its local share under its agreement with the Corps, how can the Corps now insist that the Port pay the additional costs of removing these improvements as a condition of having the breakwater fully restored?

Response. Please see the response to question number 2 above. The Corps intends to comply with the Senate's direction in the committee report.

Question 4. Can you explain how the Corps can justify to the taxpayers a proposal to overhaul the Federal dredge *McFarland* so it can sit idle most of the time? If you're spending taxpayer money to modernize the McFarland, shouldn't it be allowed to work?

Response. The Corps hopper dredge *McFarland* was launched in 1967, and is in need of major overhaul, rehabilitation and modernization. The recommendation to place the *McFarland* in a ready reserve status does not conclude that it will sit idle most of the time. Historical dredging requirements indicate that there are periods when unforeseen requirements and peak workload demands exceed the industry capabilities and warrant the use of Corps' Federal hopper dredges. The *Wheeler*, while in a ready reserve status during the first 2 years, worked an average of 103 days per year.

Question 5. The proposal to place the dredge McFarland in reserve is also directly contrary to what the Corps' New Orleans District recommended based on their first-hand experience after the New Orleans-based dredge Wheeler was place in reserve status. The District found that keeping the Wheeler in reserve increased costs, delayed response time and left the Wheeler with insufficient crew for staffing. The District report states,

> Based on the findings of this report, there is no other logical recommendation, except for the Secretary to report to Congress that the Wheeler should be returned to active status and no other hopper dredge should be placed in reserve.

Despite these conclusions by the Corps officials closest to the situation, Corps headquarters has proposed continuing this failed experiment.

The findings and conclusions of the New Orleans District raise serious questions whether the Corps is playing politics to manipulate its studies and recommendations to Congress. How can you justify the Corps recommendations for its hopper dredges contained in the Corps' June 12 report to Congress?

Response. While I am aware of a draft document referencing data from the New Orleans District, this is not an official report and has not been approved by the Corps of Engineers. The references to data concerning the unit price and comparison with the Government Estimate for hopper dredging in the New Orleans District could suggest a different conclusion than that recommended in the Report to Congress. The Corps did not reach its conclusions based solely upon the unit price of material removed by hopper dredge in one district; however, from a national perspective the average unit price for all hopper dredging contracts did not significantly change. The effectiveness of using Corps hopper dredges in ready reserve can not be evaluated solely on cost, but must take into account the variables of the dredging requirements and capabilities of the combined industry and Corps fleet. Each year has presented the Corps and industry with differing demands on the hopper dredge capabilities, including high water shoaling in the Mississippi River, rapid, unforeseen shoaling in the Mississippi River Gulf Outlet following a hurricane, coupled with South Atlantic dredging requirements predicated by sea turtle dredging windows at the same time. It is the very fact that there are different requirements

every year that confirms the need to have Federal hopper dredge capabilities for peak workload demands, and the ability to place these resources in ready reserve when conditions do not require a full fleet capability. The hopper dredging contract experience this year is a good example of the value to the Government of being able to place Federal dredges in ready reserve. The Mississippi River remained in a low water State the entire year, and only one hopper dredging contract was awarded in New Orleans, as compared to a high water State when as many as 11 contracts were awarded in a 4-month span. The net result to the national program was a substantial decrease in the cost of hopper dredging contracts, and only 50 percent of the average annual number of jobs awarded. Competition was improved and three contracts had all five hopper dredge owning contractors bidding. Yet, even with this minimum amount of work, there was an unforeseen requirement that warranted the use of the WHEELER in conjunction with three industry hopper dredges as a result of a sunken drydock in the Calcasieu River. The availability of the Corps ready reserve hopper dredge expedited the dredging of a diversion channel around the drydock, rapidly responding to the needs of the project. I am confident that the cost of hopper dredging can be reasonable and the requirements to our ports and maritime users can be met with the recommended ready reserve capabilities of the Federal hopper dredges.